TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1884.

No. 67

PILAR GARCIA DE SABARIEGO AND MANUEL SA[illegible] RIEGO, HER HUSBAND, PLAINTIFFS IN ERROR,

vs.

MARY A. MAVERICK, ALBERT MAVERICK, GEORGE [illegible] MAVERICK, SAMUEL MAVERICK ET AL.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES [illegible] THE WESTERN DISTRICT OF TEXAS.

FILED OCTOBER 6, 1884.

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1886.

No. 345.

PILAR GARCIA DE SABARIEGO AND MANUEL SABARIEGO, HER HUSBAND, PLAINTIFFS IN ERROR,

vs.

MARY A. MAVERICK, ALBERT MAVERICK, GEORGE M. MAVERICK, SAMUEL MAVERICK ET AL.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS.

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1 *Title of Cause in Supreme Court of the United States.*

PILAR GARCIA DE SABARIEGO and MANUEL SABRIAGO, Plaintiffs in Error,

vs.

MARY A. MAVERICK, GEORGE M. MAVERICK, ALBERT MAVERICK, Samuel Maverick, William H. Maverick, Edward H. Terrell and Mary Terrell, his wife; J. H. Kampman, Herman D. Kampman and Elizabeth Kampman, his wife; Bertha Doeer and A. H. Doeer, her husband; Phillip Immecke, Fritz Steiner, Jacob Waelder and Ada Waelder, his wife; Edward Degener and Mary Degener, his wife; C. M. Terrell and Sarah S. Terrell, his wife; Ed. Steves, E. Dillon, A. Michael and Helen Michael, his wife; J. P. Reed and Mary E. Reed, his wife; Francis E. Vance and J. Milton Vance, as executors of the estate of William Vance, deceased, and individually, and Mary Vance, wife of J. Milton Vance; Daniel Oppenheimer and Louisa Oppenheimer, his wife; Mrs. E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher, Miss Annie Sweet, Mrs. C. Sweet, widow of J. R. Sweet; Temple Beth-El "Synagouge," a religious corporation, represented by and under the control of its trustees, Sol. Half, S. Myer, Simon Frank, A. B. Frank, and Daniel Oppenheimer;

2 The City of San Antonio, a municipal corporation, represented by its mayor, James H. French; Trinity Methodist Episcopal Church, a religious corporation, represented by and under the control of its trustees, R. M. Moore, Wesly Ogden, C. M. Terrell, G. W. Brackenridge, George B. Silsby, and M. A. Daughtery; The Baptist Church, a religious corporation, represented by and under the control of its trustees, S. Cayce, E. G. Houston, W. D. Johnson, and James Newton, Defendants in Error.

In the Circuit Court of the United States for the Fifth Circuit and Western District for the State of Texas, at San Antonio.

Honorable E. B. Turner, district judge, presiding.

Be it remembered that at a term of the circuit court of the United States for the fifth circuit and western district of Texas, held at San Antonio, for March term, A. D. 1884, Honorable E. B. Turner, district judge, presiding, among other the following proceedings were had:

Original Petition.

Be it remembered that on the 13th day of September, A. D. 1881, the plaintiffs, Pilar Garcia de Sabariego and Manuel Sabariego, her husband, filed their original petition in action of trespass to try title against Mary A. Maverick and others, cause No. 53, said petition being as follows, to wit:

3 *Original Petition. Filed 13th September,* 1881.

The Circuit Court of the United States for the Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*, Plaintiff-,
vs.
MARY A. MAVERICK *et al.*, Defendants.

To the hon. the judges of the circuit court of the United States for the western district of Texas, at San Antonio:

The declaration and petition of Pilar Garcia de Sabariego, herein joined by her husband, Manuel Sabriego, who are both citizens of the Republic of Mexico and residing at San Luis Potosi, in the State of San Luis Potosi, therein complaining of Mary A. Maverick, Albert Maverick, George M. Maverick, Samuel Maverick, William H. Maverick, Edward H. Terrell, and Mary Terrell, his wife; J. H. Kampman, Herman D. Kampman, and Elizabeth, his wife; Bertha Doerr and H. A. Doerr, her husband; Phillip Immecke, and Fritz Steiner, Jacob Waelder, and Ada Waelder, his wife; Edward Degener and Mary, his wife; C. M. Ter-
4 rell and Sarah S., his wife; Ed. Steves, E. Dillon, A. Michael, and Helen Michael, his wife; J. P. Reed and Mary E. Reed, his wife; Frances E. Vance and J. Milton Vance, as executors of the estate of William Vance, deceased, and individually, and Mary Vance, wife of Milton Vance; C. Upson, executor of the estate of James Vance, deceased; Dr. J. R. Smith, Daniel Oppenheimer, and Louisa Oppenheimer, his wife; Mrs. E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher, Temple Beth-El Synagogue, a religious corporation, represented by and under the controll of its trustees, Sol. Halff, S. Mayer, Simon Frank, A. B. Frank, and Dan. Oppenheimer; The City of San Antonio, Texas, a municipal corporation, represented by its mayor, James H. French; Trinity Methodist Episcopal Church, a religious corporation, represented by and under the controll of its trustees, R. M. Moore, Wesley Ogden, C. M. Terrell, G. W. Brackenridge, George B. Silsby, and M. A. Dougherty, so far as said trustees are known to plaintiffs; The Baptist Church, a religious corporation, represented by and under the controll of its trustees, S. Cayce, E. G. Houston, W. D. Johnson, and James Newton, so far as said trustees are known to plaintiffs; Miss Annie Sweet and Mrs. C. Sweet, widow of J. R. Sweet; Mrs. E. A. M. Houston, who are each
5 citizens of the United States of America and of the State of Texas, residing in the city of San Antonio, in the aforesaid western district of Texas, and who are hereinafter styled defendants.

Your petitioners respectfully represents that the foregoing averments are true, that each of your petitioners is an alien to the United States of America, and that each of the said defendants is a citizen thereof.

Your petitioners would respectfully represent that the said Pilar Garcia de Sabariego was lawfully married to her said husband,

Manuel Sabariego, at the town of Goliad (La Bahia), in the province of Coahuila and Texas, in the Republic of Mexico, and now State of Texas, on or about the — day of ——, A. D. 1833, and since that time and up to the present time has been, and now is, the lawfull wife of said Manuel Sabariego, and that she is the sole heir-at-law of her deceased father, Francisco Garcia, who departed this life on or about A. D. 1834, and of her deceased mother Gertrudes Barrera de Garcia, wife of said Francisco Garcia, who departed this life on or about A. D. 1842, and who died seized and possessed, having a fee-simple title thereto, of a certain tract or suerte of land lying,
6 being, and situated in the city of San Antonio, county of Bexar, and State of Texas, on the east side of the San Antonio river, and being bounded as follows, to wit: On the north by lands of the widow of Vicente Amador, on the south by lands of Cipriano Losoya, on the east by the wall of the Mission de Baliro, and on the west by the lands of Francisco Collentes and Manuel Ximenes, and being more particularly described as follows: Beginning at the southwest corner of this, the Francisco Garcia suerte, in the east line of Manuel Ximines three varas above the lower line of Houston street, thence with said line of Ximines north 12°, west 19 varas to a point in the upper line of Houston street thirty varas from the east line of Navarro street; thence north 7¼° east, 43½ varas to the northeast corner of Manuel Ximines, and following the same course along the east line of Francisco Collantes 139 varas to the south line of Travis square; thence north 5¼°, east 106 varas; thence north 56° 42 varas; thence north 66°, east 32½ varas to the east line of Jefferson street, 3½ varas above the upper line of Pecan street; thence north 66°, east 23 varas; thence north 67¼°, east 65 varas; thence north 53½°, east 20 varas to the southwest corner of the Vicente Amador
8 suerte; thence with the southwest line of said Amador suerte south 39°, east 156½ varas; thence south 35¼°, east 158 varas to the upper line of the old Alamo ditch; thence south 10°, west 45½ varas to the northeast corner of the old Valiro wall; thence along the upper line of said wall north 75⅜° west, 79 varas to its northeast corner; thence down said wall south 8°, west 10 varas; thence north 82°, west 8 varas; thence south 10°, west 6 varas to the *to the* upper line of the Cipriano Losayo suerte; thence with the said line south 79°, west 285 varas to the beginning. And for a further description of said suerte refer*a*nce is hereby made to the accompanying map, which is hereto attached and made part hereof.

(Here follows diagram marked p. 7.)

And your petitioners further aver that said Pilar Garcia de Sabariego, as such heir as aforesaid, at the death of her said parents, and, as their sole heir, became seized and possessed of the aforesaid tract or suerte of land by inheritance, and which is of the value of at least two hundred thousand dollars.

And your petitioners further aver that said Pilar Garcia de Sabariego being seized and possessed as aforesaid of the hereinbefore-
9 described land and premises, the hereinbefore-named defendants, and each of them, on or about the first day of

January, A. D. 1843, did unlawfully, forcibly, and against the will of your petitioners enter upon the aforesaid land and premises and dispossessed and ejected your petitioners therefrom, and have from that date to the date of the filing of this petition kept your petitioners so unlawfully ejected and dispos-sed of said land and premises, to the great damage of your petitioners in the sum of two hundred thousand dollars.

Petitioners further aver that during all the time in which the said defendants have so had possession of the same they, the said defendants, have received and converted to their own use the rents, issues, and profits of said land and premises, which are reasonably worth the sum of two hundred thousand dollars.

The premises considered, your petitioners pray that each of said defendants, to wit, Mary A. Maverick, Albert Maverick, George M. Maverick, Samuel Maverick, William H. Maverick, Edward H. Terrell, and Mary Terrell, his wife; J. H. Kampman, Herman D. Kampman and Elizabeth, his wife; Bertha Doeer and H. A. Doeer, her husband; Philip Iemeneeke and Fritz Steiner, Jacob Waelder
10 and Ada Waelder, his wife; Edward Degener and Mary, his wife; C. M. Terrell, and Sarah S., his wife; Ed. Steves, E. Dillon, A. Michael and Helen Michael, his wife; J. T. Reed and Mary E. Reed, his wife; Francis E. Vance and J. Milton Vance, as the executors of the estate of William Vance, deceased, and individually; and Mary Vance, wife of Milton Vance; C. Opson, executor of the estate of James Vance, deceased; Dr. J. R. Smith, Daniel Oppenheimer and Louisa Oppenheimer, his wife; Mrs. E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher, Temple Beth-El "Synagogue," a religious corporation, represented by and under the control of its trustees, Sol. Halff, S. Mayer, Simon Frank, A. B. Frank, and Dan. Oppenheimer; The City of San Antonio, Texas, a municipal corporation, represented by its mayor, James H. French, Trinity Methodist Episcopal Church, a religious corporation represented by and under the control of its trustees, R. M. Moore, Wesley Ogden, C. M. Terrell, G. W. Brackenridge, George B. Silsby, and M. A. Daugherty, so far as said trustees are known to plaintiffs; the Baptist Church, a religious corporation, represented by
11 *by* and under the control of its trustees, S. Cayce, E. G. Houston, W. D. Johnson, and James Newton, so far as said trustees are known to plaintiffs; Miss Annie Sweet and Mrs. C. Sweet, widow of J. R. Sweet; Mrs. E. A. M. Houston, be cited to appear at the next term of your honorable court to answer this petition, by citation ("or subpœna") alone, without copy of this petition, and that upon a hearing of this cause, your petitioners have judgment in their favor against the said defendants, decreeing the said Pilar Garcia de Sabariego to be the owner in her sole and seperate right in fee-simple of the said land and premises and entitled to the possession thereof.

Plaintiffs further pray for judgment for their rents, issues, and profits thereof in the sum of two hundred thousand dollars.

Petitioners ask for writs of possession, restitution, and execution,

and for all other processes, mense and and final, and for all relief to which in law they may be entitled.

BERRY & ROSENHEIMER,
HOWARD & HARRISON,
MASON & PASCHAL,
Attorneys for Plaintiffs.

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary
12 A. Maverick *et al.* Plaintiffs' original petition. This action is brought as well to try the title as for damages. Filed September 13th, 1881. W. C. Robards, U. S. C. clerk. Berry & Rosenheimer. Howard & Harrison. Mason & Paschal, att'ys for pl'ffs.

13 *Original Answer of Daniel Oppenheimer and His Wife, Louisa Oppenheimer.*

Process issued to the several defendants, and on the 8th day of October, A. D. 1881, the following answer filed, to wit:

[Endorsed:] No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* U. S. circuit court, western district of Texas. Answer of Daniel Oppenheimer and his wife, Louisa Oppenheimer. Filed October 8th, A. D. 1881. W. C. Robards, clerk. Shook & Dittmar, attorn*ies* for D. & L. Oppenheimer, defendants.

14 *Original Answer of D. & L. Oppenheimer. Filed Oct. 8th,* 1881. *W. C. Robards, Clerk.*

In Circuit Court of U. S., Western District of Texas, Sitting at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.*
} No. 53.

And now comes the defendants, Daniel Oppenheimer and Louisa Oppenheimer, by their attorneys, and say that the petition of plaintiff- and the matters therein contained in man-er and form as the- are stated and set forth are not sufficient in law for the said plaintiff- to have or maintain their aforesaid action thereof against the defendants, and that these defendants are not bound by law to answer the same.

Wherefore these defendants pray judgment that the said plaintiffs may be barred from having or maintaining their aforesaid action thereof against them, &c.

SHOOK & DITTMAR,
Att'y- for D. & L. Oppenheimer.

And if the *demoure* be overruled and these defendants be held to answer further, then these defendants deny all the allegations in plaintiffs' petition and say that they are not guilty.

And of this these defendants put themselves upon the country.

SHOOK & DITTMAN,
Att'y- for D. & L. Oppenheimer, Defendants.

Filed Oct. 8, 1881.

W. C. ROBARDS, *Clk.*

15 *Original Answer of A. & H. Michael.*

Process issued to the several defendants, and on the 8th day of October, A. D. 1881, the following answer filed, to wit:

[Endorsed:] No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* U. S. circuit court, western district of Texas. Answer of A. Michael and Helen Michael, his wife. Filed October 8th, A. D. 1881. W. C. Robards, clerk. Shook & Dittmar, attorneys for A. & H. Michael, defendants.

16 *Original Answer of A. & H. Michul. Filed Oct. 8, 1881. W. C. Robards, Clerk.*

In Circuit Court of U. S., Western District Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.* } No. 53.

And now comes the defendants, A. Michul and Helen Michul, by their att'ys, and say that the petition of plaintiffs and the matter therein contained in manner and form as the same are stated and set forth are not sufficient in law for the plaintiffs to have or maintain their aforesaid action thereof against these defendants, and that these defendants are not bound by the law to answer the same.

Wherefore these defendants pray judgment that the said plaintiffs may be barred from having or maintaining their aforesaid action thereof against these, &c.

SHOOK & DITTMAN,
Att'ys for A. & H. Michul, Def'ts.

And if this demurrer be overruled and these defendants be held to answer further, then these defendants deny all the allegations in in plaintiffs' petition and say that they are not guilty.

And of this these defendants put themselves upon the county.

SHOOK & DITTMAN,
Att'ys for A. & H. Michul, Defendants.

17 *Original Answer of Fra-ces Vance, Executor of the Estate of William Vance, Deceased.*

Process issued to the several defendants, and on the 8th day of October, A. D. 1881, the following answer filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* U. S. circuit court, western district of Texas. Answer of

Francis E. Vance, executor of the estate of William Vance, deceased. Filed October 8th, A. D. 1881. W. C. Robards, clerk. Devine & Cowie, attorney- for defendant, Frances E. Vance, ex'r estate William Vance, deceased.

18 *Answer of Francis E. Vance, Ex'r Estate of William Vance, Deceased. Filed 8th Oct.*, 1881.

In the Circuit Court of the United States, Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.* *vs.* MARY E. MAVERICK *et al.* } No. 53.

Now comes Frances E. Vance, executrix of the estate of William Vance, deceased, and, without waiving any exceptions to the sufficiency of the petition filed herein, for answer to said petition says that as to the wrongs and trespasses, matters and things therein complained of against her she pleads not guilty. Wherefore she puts herself upon the country.

DEVINE & COWIE,
Att'ys for Defendant, Francis E. Vance, Ex'r of William Vance, Dec'd.

Endorsed: No. 53. U. S. circuit court, western district of Texas, at San Antonio. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Answer of Francis E. Vance, executrix of the estate of William Vance, deceased. Filed Oct. 8, 1881. W. C. Robards, cl'k.

19 *Original Answer of Def'ts, Maverick et al. Filed 8th October*, 1881.

In the Circuit Court of the United States for the Western District of Texas, Sitting at San Antonio.

PILAR GARCIA DE SABARIEGO *vs.* MARY A. MAVERICK *et al.* } No. 53.

Now comes Mary E. Maverick, George M. Maverick, Samuel Maverick, Edward H. Terrell, and Mary Terrell, his wife; J. H. Kampman, Herman D. Kampman, and Elizabeth Kampman, his wife; Bertha Doeer, and H. A. Doeer, her husband; Jacob Waelder, and Ada Waelder, his wife; Edward Degener, and Mary Degener, his wife; C. M. Terrell, and Sarah S. Terrell, his wife; Ed. Steves, Mrs. E. A. Patton, Francis E. Vance, as executrix and individually; J. Milton Vance, as executor and individually; and Mary Vance, wife of J. Milton Vance; Fritz Steiner, Mary Schumacher, E. Dillon, Miss Annie Sweet, Mrs. C. Sweet, J. P. Reed and Mary E. Reed, his wife; Mrs. E. V. Stegall, and A. H. Stegall, her husband, defendants in the above-entitled cause, and say that the petition of plaintiffs is insufficient in law for them to have or maintain this their suit.

Wherefore the said defendants pray to be hence dismissed with their costs, &c.

WAELDER & UPSON,
Att'ys for Def'd'ts, Mary A. Maverick et al.

20 *Original Answers of Mary A. Maverick et al.*

Process issued to the several defendants, and on the 8th day of October, A. D. 1881, the following answer filed:

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick, *et al.* U. S. circuit court, western district of Texas. Answers of Mary A. Maverick *et al.* Filed October 8th, 1881. W. C. Robards, clerk. Waelder & Upson, att'ys for defendants, Mary A. Maverick, George M. Maverick, Samuel Maverick, Edward & Mary Terrell, J. H. Kampman, Herman D. and Elizabeth Kampman, Bertha & A. H. Doeer, Fritz Steiner, Jacob and Ada Waelder, Edward and Mary Degener, C. M. and Sarah S. Terrell, Edward Steves, E. Dillon, J. P. and Mary E. Reed, Francis E. Vance and J. Milton Vance, executors of the estate of William Vance, deceased, and individually; Mary Vance, wife of J. Milton Vance; E. V. & A. H. Stegall, Mrs. E. A. Patton, Mrs. Mary Shumacher, Mrs. Annie Sweet and
21 Mrs. C. Sweet; C. L. Wurzbach, attorney for Edward & Mary Degener, Burtha & A. H. Doeer, and Mrs. Schumacher.

22 *Answer of Frances E. Vance.*

Process issued to the several defendants, and on the 8th day of October, A. D. 1881, the following answered filed:

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* U. S. circuit court, western district of Texas. Answer of Frances E. Vance. Filed 8th day of October, A. D. 1881. W. C. Robards, clerk. Devine & Cowie, attorneys for defendant, Frances E. Vance.

23 *Answer of Fr. E. Vance. Filed 8th Oct.*, 1881.

In the Circuit Court of the United States, Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.* } No. 53.

Now comes Francis E. Vance, one of the defendants in the above-entitled cause, and, without waiving any exceptions to the sufficiency of the petition filed herein, for answer to said petition says that as to the wrongs and trespasses, matters and things, therein alleged against her she pleads not guilty.

Wherefore she puts herself upon the country.

FRANCIS E. VANCE.

DEVINE & COWIE,
Att'ys for Defendant.

Endorsed: No. 53. U. S. circuit court, western district of Texas, at San Antonio. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Answer of Francis E. Vance. Filed Oct. 8, 1881. W. C. Robards, clerk.

24 *Answer of "Synagogue."*

Process issued to the several defendants, and on the 8th day of October, A. D. 1881, the following answer filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* U. S. circuit court, western district of Texas. Answer of "Synagogue," Filed 8th d-y of October, A. D. 1881. W. C. Robards, clerk. Shook & Dittmar, att'ys for "Synago-ue."

25 *Original Answer of "Synagogue." Filed 8th October,* 1881.

In Circuit Court of U. S., W. D. T., at San Antonio.

PILAR GARCIA DE SABARIEGO *et als.*
vs.
MARY A. MAVERICK *et als.*
} No. 53.

And now comes the defendants, Sol. Halff, Simon Frank, S. Mayer, Dan. Oppenheimer, and A. B. Frank, in their alleged capacity of trustees of the alleged religious corporation, Temple Beth-El "Synagogue," and say that the petition of plaintiffs and the matters therein contained in manner and form as the same are stated and set forth are not sufficient in law for the plaintiffs to have and maintain their aforesaid action thereof against these defendants as trustees, as alleged, and that the defendants, as trustees for said religious corporation, are not bound by law to answer the same.

Wherefore these defendants, as trustees, pray judgment that said plaintiffs may be barred from having or maintaining their aforesaid action thereof against them as trustees, etc.

SHOOK & DITTMAR,
Att'ys for "Synagogue," Def'd'ts.

And if demurrer be overruled and these defendants be held to answer further, then these defendants, as trustees, deny all allegations in plaintiffs' petition, and say that they are not guilty;
26 and of this the defendants, as trustees as aforesaid, put themselves upon the country.

SHOOK & DITTMAR,
Att'ys for "Synagogue," Def't.

Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs* Mary A. Maverick *et al.* Original answer of "Synagogue." Filed Oct. 8, 1881. W. C. Robards, clerk.

27 *Answer of J. M. Vance, Executor, and of J. M. Vance and Mary Vance.*

And afterwards, on the 11th day of October, A. D. 1881, the following answer was filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Answer of J. M. Vance, executor, and of J. M. Vance and Mary Vance. Filed 11th day of October, A. D. 1881. W. C. Robards, clerk. Cause pending in U. S. circuit court to March term, 1881.

28 *Answer of J. M. Vance, Ex'r, and of J. M. Vance and Mary Vance. Filed 11th October*, 1881.

In the Circuit Court of the United States, Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.* } No. 53.

Now comes J. Milton Vance for himself, and as executor of the estate of William Vance, deceased, and Mary Vance, his wife, defendants in the above-entitled cause, and excepts to the sufficiency of the petition filed herein, because it does not state facts sufficient to constitute a cause of action against these defendants.

Wherefore they pray to be hence dismissed with their costs, and for general relief.

And if said demurrer be overruled defendants, for answer to said petition, say that of the wrongs, injuries, and trespasses therein alleged against them they are not guilty: and of this they put themselves upon the country, &c.

DEVINE & COWIE,
Att'ys for Defendants, J. Milton Vance and Mary Vance.

Endorsed: No. 53. In U. S. circuit court, western district of Texas, at San Antonio. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Answer of J. M. Vance, ex'r, &c., & J. M. Vance and Mary Vance, defendants. Filed Oct. 11th, 1881. W. C. Robards, clerk.

29 *Answer of City of San Antonio.*

And afterwards, on the 14th day of October, A. D. 1881, the following answer was filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Answer of the City of San Antonio. Filed October 14th, 1881. W. C. Robards, clerk.

30 *Answer of City of San Antonio. Filed October* 14, 1881.

THE STATE OF TEXAS *County of Bexar:*

In Circuit C't U. S., W. D. T.

PILAR GARCIA DE SABARIEGO *et als.*

vs.

MARY A. MAVERICK *et als.*

In this cause now comes the City of San Antonio, James H. French, mayor thereof, and, generally demurring to plaintiffs' petition, say that the same and the matter therein alleged are not sufficient in law for the said plaintiffs to have and maintain there said cause of action against this defendant, and that this defendant is not bound to answer thereto. Wherefore this defendant prays judgment that said plaintiffs may be barred from having and maintaining there aforesaid action against him.

ECKFORD AND NEWTON,
Att'ys for City of San Antonio.

And if the foregoing demurrer be overruled and this defendant be held to further answer, then this defendant denies all and singular the allegations in plaintiffs' petition contained, and says that he is not guilty of the supposed wrongs and trespasses in plaintiffs' petition alleged; and of this he put himself upon the country.

ECKFORD & NEWTON,
Att'ys for the City of San Antonio.

31 Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Answer of the City of San Antonio. Filed October 14, 1881. W. C. Robards, clerk.

32 *First Amended Original Answer of D. and L. Oppenheimer.*

And afterwards, on the 31st day of January, A. D. 1882, the following answer was filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* First amended original answer of D. and L. Oppenheimer. Filed January 31, 1882. W. C. Robards, clerk.

33 *First Amended Original Answer of D. & L. Oppenheimer. Filed* 31*st January*, 1882.

In U. S. Circuit Court, Western District of Texas, at San Antonio.

PILAR GARCIA DE SABRIEGO *et als.*

vs.

MARY A. MAVERICK *et als.*

And now comes the defendant, Daniel Oppenheimer, and his wife, Louisa D. Oppenheimer, and, with leave of the court first duly had, amend their original answer filed in the above-styled cause on

the sixth day of October, A. D. 1881, and in lieu thereof institute this their first amended original answer, and say—

That they deny all and singular the allegations in plaintiffs' petition contained, and say that they are not guilty.

That these defendants claim title to the following lots or parcels of lands in the city of San Antonio, Bexar county, and State of Texas, to wit: All those certain parcels or lots of land lying and being situate in the county of Bexar and in that portion of the city of San Antonio known as "Alamo City," and known and designated on the plat of "Alamo City" as lots No. 1 (one) and No. 2 (two), in block No. 16 (sixteen); said two lots adjoin each other, and
34 together have a front of forty varas (40 v'r's) on the east side of Travis plaza (or square), and run back for depth between the south line of Pecan street and a line parallel thereto fifty-one (varas) (one vara of the original depth next to the plaza being left for sidewalk). Said two lots are bounded north by Pecan street, east by an alley, south by property of Jacob Waelder, Esq., and west by Travis plaza, and being the same property conveyed to W. H. Maverick by Mary A. Maverick, by deed recorded in book W, No. 2, p. 465, of the records of Bexar county, to which reference is hereby made for further information, and being also the same lots that were conveyed to the defendants, Louisa D. Oppenheimer, wife of the defendant, Daniel Oppenheimer, by William H. Maverick and Emilie V. Maverick, his wife, by deed dated the 5th day of October, A. D. 1875, and duly recorded in the registry of Bexar county, in vol. 2, on page- No. 483 & 484, having been filed for registration on the 6th day of October, A. D. 1875, at 12½ o'clock p. m.

That defendants own and claim said premises as their homestead, together with all and singular the rights, members, parts, hereditaments, and appurtenances to the same belonging or in anywise incident or appurtaining.

And these defendants further say that plaintiffs never had
35 any claim to said property, nor to any part of it; that said pretended claim does not embrace said premises nor any part of them.

And these defendants further say that if plaintiffs ever had any claim to said premises, or any part thereof, which is not admitted, but denied, that then plaintiffs' claim is a stale demand; that through their laches and gross neglect, they failing to make any reclamation or to ever make known their claim, if any they had, which is denied, for more than fifty years, they have lost all right to any relief whatever.

That for more than sixty years neither plaintiffs nor those under whom they claim have exercised any dominion or right of ownership whatever over the property aforesaid; that plaintiffs paid no taxes, no assessments, nor any other charges upon the said premises, but, on the contrary, allowed others to possess, to claim, to improve the same, and to treat it as their property without any protest or reclamation; that thus plaintiffs estopped themselv-s from now claiming the same or any part thereof, plaintiffs in truth and

in fact long before the filing of this suit having abandoned any and all claim to said property.

36 That the defendants and those under whom they claim have paid all taxes to State, county, and city; have borne all burdens and paid all assessments and charges, amounting to more than, say, two thousand dollars; that all those payments were compulsory under the law, and were made by these defendants and those under whom they claim as owners in good faith, and if it should be adjudged that plaintiffs are the owners, then these defendants claim judgment against plaintiffs for all those payments thus made, and that they be a charge upon the land.

And these defendants further say that they and those under whom they claim have been in actual, peac-ible, and adverse and continuous possession of said premises for more than sixty years next previous to the filing of plaintiffs' petition.

That these defendants and those under whom they claim have been in peaceable, continuous, and adverse possession of said premises under title, to wit, a regular chain of transfer from and under the sover-*ngh*ty of the soil for more than three years next after plaintiffs' cause of action had accrued, if ever they had any, which is denied.

37 That these defendants and those under whom they claim have been in peaceable, continuous, and adverse possession of said premises under color of title, to wit, a consecutive chain of transfer from and under the sover-*ngh*ty of the soil down to these defendants in possession, without being regular, as defined by statute, such defect not extending to or including the want of intrinsic fairness and honesty, for more than three years next after plaintiffs' cause of action, if they ever had any, which is denied.

That plaintiffs have failed to institute their suit against these defendants, who are and were in continuous, peaceable, and adverse possession of said premises under title, and also under color of title, within three years next after plaintiffs' pretended cause of action had accrued.

That defendants, under title and under color of title, as defined by statute, have had more than three years' actual, continuous, peaceable, and adverse possession of said premises next previous to the institution of plaintiffs' suit.

And these defendants therefore plead the three years' statute of limitations in bar of plaintiffs' action.

And these defendants further say that they and those under whom they claim have had more than five years' continuous, peaceable, and adverse possession of said premises, cultivating, using,

38 and enjoying the same and paying taxes thereon and claiming under a deed and under deeds duly registered next previous to the institution of plaintiffs' suit.

That plaintiffs have failed to institute their suit within five years next after the accrual of their pretended causes of action, these defendants and those under whom they claim having had continuous, peaceable, and adverse possession of said premises, cultivating, using,

and enjoying the same and paying taxes thereon and claiming under a deed and under deeds duly registered during that time.

And these defendants therefore plead the five years' statute of limitations in bar of plaintiffs' action.

And these defendants further say that they and those under whom they claim have had more than ten years' continuous, peaceable, and adverse possession of said premises, cultivating, using, and enjoying the same for more than ten years next previous to the institution of plaintiffs' suit.

That plaintiffs failed to institute their suit within ten years next after the accrual of their alleged cause of action, these defendants and those under whom they claim having had continuous,
39 peaceable, and adverse possession of said premises, cultivating, using, and enjoying the same during all that time.

And these defendants therefore plead the ten years' statute of limitations in bar of plaintiffs' action.

And these defendants further say that the plaintiffs are aliens, and always were aliens, and not subject to the laws of the State of Texas touching the disability to sue; that therefore the statute of limitation run against them and against each of them without interruption.

And these defendants further say that they and those under whom they claim have had adverse possession in good faith of the premises in controversy for more than one year next before the commencement of this suit, and that those under whom they claim have made permanent and valuable improvements on the lands sued for during the time they have had such possession; that they have erected their homestead upon said premises and made the following improvements, to wit:

A two-story stone house, valued at	$15,000 00
Outhouses and fencing	2,000 00
Gas pipes and fixtures	1,000 00
Water-works, pipes, and fixtures	2,000 00
Trees and shrubbery	600 00
Sidewalks	400 00

40 And these defendants pray that in case the plaintiffs prevail these defendants have judgment for their improvements against the plaintiffs.

And these defendants further say that on the 5th day of October, A. D. 1875, for and in consideration of the sum of two thousand *and* five hundred dollars, gold ($2,500.00), *gold*, to William H. Maverick and to his wife, Emilie V. Maverick, in hand paid by the defendant, Louise D. Oppenheimer, wife of Daniel Oppenheimer, the said Maverick and wife, all resident citizens of San Antonio, Bexar county, State of Texas, sold, transferred, and assigned the above-described two lots of land unto the defendant, Louise D. Oppenheimer; that in consideration of the premises and to evidence said sale said Maverick and wife, on said day, made, signed, executed, and delivered unto this defendant, Louise D. Oppenheimer, their deed in writing.

That, among other clauses and warrants, said deed contained in substance the following warranty, to wit: That they, the said William H. Maverick and his wife, Emilie V. Maverick, bind themselves, their heirs and legal representatives, forever, to warrant and defend all and singular the said lots unto the said Louise D.
41 Oppenheimer, her heirs and assigns, against the claim or claims of any and all persons whomsoever lawfully claiming or to claim the same or any part thereof.

That thereby and by reason thereof said Maverick and wife became liable and bound to defend this suit, and, in case plaintiff's title prevail, to refund to this defendant, Louise D. Oppenheimer, the purchase-money so paid to them, to wit, $2,500.00, gold, together with interest thereon from said 5th day of October, A. D. 1875, at the rate of eight per cent. per annum, and all costs of suit.

And these defendants pray that the said William H. Maverick and his wife, Mrs. Emilie V. Maverick, be cited as warrantors to defend this cause.

They further pray that the court adjudge that plaintiffs take nothing by this suit, and, if that be not done, they pray judgment in their favor and against plaintiffs for $2,000.00 taxes, burdens, and assessments, etc., as specified in this answer, the same to be a charge upon the land in controversy.

They also pray judgment for their improvements against plaintiffs, the same to be a charge upon the land in controversy.

They also pray judgment against the said William H. Maverick and Mrs. Emilie V. Maverick upon the warranty for the pur-
42 chase-money as aforesaid and interest, as above stated, and for all costs of suit, and also for all such other, further, general, and special relief in the premises as may be deemed just and proper.

SHOOK & DITTMAR,
Att'ys for Defendants, D. & L. Oppenheimer.

Endorsed: No. 53. Pilar Garcia de Sabariego *et als vs.* Mary A. Maverick *et als.* First amended original answer of D. and L. Oppenheimer. Filed January 31, 1882. W. C. Robards, cl'k.

43 *First Amended Original Answer of A. and H. Michael.*

And afterwards, on the 31st day of January, A. D. 1882, the following answer was filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* First amended original answer of A. and H. Michael. Filed January 31, 1882. W. C. Robards, clerk.

44 *First Amended Original Answer of A. & H. Michael. Filed* 13 *January*, 1882.

In U. S. Circuit Court, Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.* } No. 53.

And now comes the defendants, Alexander Michael and his wife, Helen Michael, and, with leave of court first had, amend their original [answer] filed in the above-styled cause on the 6th day of October, A. D. 1881, and in lieu thereof substitute this their first amended original answer, and say that they deny all and singuly the allegations in plaintiffs' petition contained, and say that they are not guilty; that these defendants claim title to the following lots or parcels of land in the City of San Antonio, Bexar county, and State of Texas, to wit: Commencing at a point 22 varas north, southwest corner of block No. 16; thence with east line of Travis square north 22 v'r's; thence east 52 v'r's to an alley; thence south with said alley 22 v'r's; thence west 52 v'r's to place of beginning, bounded on the north by property of Mrs. Waelder and south by the property of the Jewish synagogue, being the same lot that was conveyed to the defendant, Helen Michael, wife of defendant,

45 Alexander Michael, by Mrs. Mary A. Maverick, on her own part, and by her, Mrs. Mary A. Mavervick, as executrix of the last will of Samuel A. Mavervick, dec'd, by deed dated the 7th day of May, A. D. 1873, and duly recorded in the registry of Bexar county, in book X, No. 1, on pages 319, 220, having been filed for registration on the 9th day of May, A. D. 1873, at 11½ o'clock a. m.

Also all the other lot of land, being that part of block No. 16 fronting 72½ E. twenty-two var's (22 v'r's) upon Avenue "C;" S. 17¾ W. about 35 v'r's upon property of E. Degner; N. 17¾ E. about forty-two (42 v'r's) upon property of Geo. M. Maverick, and west upon an alley.

Said property is situated about 150 varas N. E. of the Alamo Plaza, and was conveyed to Mary M. Terrell by Mary A. Maverick, ex. of the estate of S. A. Maverick, deed Nov. 17, 1875; deed recorded in Bexar county records, vol. 2, p. 543–544, and is the same lot conveyed to said defendant, Helen Michael, by Edwin H. Terrell and his wife, Mary Maverick Terrell, by deed dated the 28th December, 1875, and duly recorded in the registry of Bexar county in vol 2, p. 596–597, having been filed for registration Dec. 30, 1875, at 9½ o'clock a. m.

That defendants own and claim said premises as their

46 homestead, together with all and singular the rights, members, parts, hereditaments, and appurtenances to the same belonging or in anywise incident or appertaining.

And these defendants further say that plaintiffs never had any claim to said property, or any part of it; that this pretended claim does not embrace said premises, or any part of them.

And these defendants further say that if plaintiffs ever had any

claim to said premises, or to any part thereof, which is not admitted, but denied, that then plaintiffs' claim is a stale demand; that through their laches and gross neglect, they failing to make any reclamation or to even make known their claim, if any they have, which is denied, for more than fifty years, they have lost all right to any relief whatever.

That for more than sixty years neither plaintiffs nor those under whom they claim have exercised any dominion or right of ownership whatever over the property aforesaid; that plaintiffs paid no taxes, no assessments, nor any other charges upon the said premises, but, on the contrary, allowed others to possess, to claim, to improve the same, and to treat it as their property without any protest or reclamation.

47 That thus plaintiffs estopped themselves from now claiming the same, or any part thereof, plaintiffs in truth and in fact, long before the filing of this suit, having abandoned any and all claim to said property.

That these defendants and those under whom they claim have paid all taxes to State, county, and city, have borne all burdens, and paid all assessments and charges, amounting to more than, say, two thousand dollars; that all these payments were compulsory under the law, and were made by these defendants and those under whom they claim as owners in good faith; and if it should be adjudged that plaintiffs are the owners, then these defendants claim judgment against plaintiffs for all these payments thus made, and that they be a charge upon the land.

And these defendants further say that they and those under whom they claim have been in actual, peaceable, and adverse and continuous possession of said premises for more than sixty years next previous to filing of plaintiffs' petition.

That these defendants and those under whom they claim have been in peaceable, continuous, [and] adverse possession of said premises under title, to wit, a regular chain of transfer down to these defendants in possession from and under the sovereignty of

48 the soil for more than three years next after plaintiffs' cause of action had accrued, if ever they had any, which is denied; that *that* these defendants and those under whom they claim have been in peaceable, continuous, and adverse possession of said premises under color of title, to wit, a consecutive chain of transfer from and under the sovereignty of the soil down to these defendants in possession, without being regular, as defined by statute, such defect not extending to or including the want of intrinsic fairness and honesty, for more than three years next after plaintiffs' cause of action had accrued, if they ever had any, which is denied.

That plaintiffs have failed to institute their suit against these defendants, who are and were in continuous, peaceable, and adverse possession of said premises under title, and also under color of title, within three years next after plaintiffs' pretended cause of action had accrued.

That defendants, under title, and under color of title, as defined by statute, have had more than three years' actual, continuous,

peaceable, and adverse possession of said premises next previous to the institution of plaintiffs' suit.

And these defendants, therefore, plead the three years' statute of limitations in bar of plaintiffs' action.

49 And these defendants further say that they and those under whom they claim have had more than five years' continuous, peaceable, and adverse possession of said premises, cultivating, using, and enjoying the same, and paying taxes thereon, and claiming under deed duly registered next previous to the institution of plaintiffs' suit.

That plaintiffs have failed to institute their suit within five years next after the accrual of their pretended cause of action, these defendants and those under whom they claim having had continuous, peaceable, and adverse possession of said premises, cultivating, using, and enjoying the same, and paying taxes thereon, and claiming under a deed and under deeds duly registered during all that time.

And these defendants therefore plead the five years' statute of limitations in bar of plaintiffs' action.

And these defendants further say that they and those under whom they claim have had more than ten years' continuous, peaceable, and adverse possession of said premises, cultivating, using, and enjoying the same for more than ten years next previous to the institution of plaintiffs' suit.

That plaintiffs failed to institute their suit within ten years
50 next after the accrual of their alleged cause of action, these defendants and those under whom they claim having had continuous, peaceable, and adverse possession of said premises, cultivating, using, and enjoying the same during all that time.

And these defendants therefore plead the ten years' statute of limitations in bar of plaintiffs' action.

And these defendants further say that the plaintiffs are aliens and always were aliens and not subject to the laws of the State of Texas touching the disability to sue; that therefore the statute of limitations run against them and against each of them without interruption.

And these defendants further say that they and those under whom claim have had adverse possession in good faith of the premises in controversy for more than one year next before the commencement of this suit, and that they and those under whom they claim have made permanent and valuable improvements on the land sued for during the time they have such possession; that they have erected their homestead upon said premises and made the following improvements, to wit:

One stone, two-story dwelling-house, valued at	$11,000 00
Wash-house and outhouses valued at	500 00
Sidewalk, valued at	115 00
51 Filling up lot	75 00
Gas-fixtures, pipes, and work	475 00
Water-works, pipes, fixtures, etc.	840 00
Trees, shrubbery, plants, &c.	400 00

And these defendants pray that in case the plaintiffs prevail these defendants have judgment for their improvements against the plaintiffs.

And these defendants further say that, on the 2d day of May, A. D. 1873, for and in consideration of the sum of one thousand gold dollars ($1,000.00, gold) to said Mrs. Mary A. Maverick in hand paid by the defendant, Helen Michael, the wife of the defendant, Alexander Michael, as aforesaid, the said Mary A. Maverick, a resident citizen of San Antonio, Bexar county, State of Texas, on her own part and as executrix of the last will and testament of Samuel A. Maverick, dec'd, sold, transferred, and conveyed the first above-described lot of land unto the defendant, Helen Michael; that, in consideration of the premises and to evidence said sale, said Mrs. Mary E. Maverick, on said day, made, signed, and delivered unto this defendant, Helen Michael, her deed in writing; that, among other clauses and covenants, said deed contains in substance the following warranty, to wit: that she, the said Mary A. Maverick, as a party to said instrument—meaning said deed—bind herself and, so far
52 as she as executrix as aforesaid is by law authorized to bind, all the heirs, devisees, legatees, distributees, and personal representatives of said Samuel A. Maverick's estate to warrant and forever defend all and singular the said premises unto the said Helen Michael [and] her heirs against all persons lawfully claiming or to claim the same or any part thereof; that thereby and by reasons thereof said Mary A. Maverick, individually and severally, and also jointly with the heirs, devisees, legatees, distributees, and personal representatives of said Samuel A. Maverick, dec'd, to wit, Albert Maverick, George M. Maverick, Samuel Maverick, William H. Maverick, and Mary Terrell, wife of Edwin H. Terrell, all of Bexar county, State of Texas, became liable and bound to defend this suit, and in case plaintiffs prevail to refund to the defendant, Helen Michael, the purchase-money so paid, to wit, one thousand gold dollars, together with interest thereon from said May 7th, A. D. 1873, at the rate of eight per cent. per annum, and all costs of suit.

And these defendants pray that said last-mentioned parties be cited as warrantors to defend this cause.

And the said defendant, Helen Michael, further says that, on the 28th day of December, A. D. 1875, for and in consideration of the sum of one thousand gold dollars to said Edwin H. Terrell and to
53 his wife, Mary Maverick Terrell, in hand paid by said Helen Michael to the said Terrell & wife, sold, transferred, and conveyed the said above-described lot of land fronting on Avenue "C" unto said Helen Michael.

That in consideration of the premises, and to evidence said sale, said Terrell and wife on said day made, signed, and delivered to said Helen Michael their deed in writing.

That among other claims and averments said deed contains in substance the following warranty, to wit:

That they, to wit, the said Terrell and wife, bind themselves, their heirs and executors, to warrant and forever defend all and singular

the said premises unto the said Helen Michael, her heirs and assigns against all persons lawfully claiming or to claim the same or any part thereof; that thereby and by reason thereof said Terrell and wife became liable and bound to defend this suit, and in case plaintiffs' title prevail to refund to this defendant, Helen Michael, the purchase-money, or to pay them, to wit, one thousand gold dollars ($1,000.00, gold), together with interest thereon at the rate of eight per cent. per annum, and all costs of suit, and this defendant pray-

54 that said Edwin H. Terrell and his wife, Mary Maverick Terrell, be cited as warrantors to defend this cause, all said warrantors hereinbefore named residing in Bexar county, State of Texas.

They further pray that the court adjudge that plaintiffs take nothing by their suit. And if that be not done they pray for judgment in their favor and against plaintiffs for $2,000.00 taxes, burdens, and assessments, etc., as specified in this answer, the same to be a charge upon the land in controversy.

They also pray judgment for their improvements against plaintiffs, the same to be a charge against the lands in controversy.

They also pray judgment against Mary A. Maverick, Albert Maverick, George M. Maverick, Samuel Maverick, William H. Maverick, and Mary Terrell, wife of Edwin H. Terrell, as to one lot as above stated, and against said Edwin H. Terrell and his wife, Mary Maverick Terrell, as to the other lot as above stated on the respective warranties of title.

And also for all such other, further, general, and special relief in the premises as may be deemed just and proper.

SHOOK & DITTMAR,
Attorneys for Defendants, Helen & Alexander Michael.

55 Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* First amended original answer of A. & H. Michael. Filed January 31, 1882. W. C. Robards, cl'k.

56 *General and Special Demurrer and Original Answer of E. V. and A. H. Steagall.*

And afterwards, on the 27th day of April, A. D. 1882, the following general and special demurrer and original answers were filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* In United States circuit court, at San Antonio. General and special demurrer and original answer of E. V. and A. H. Steagall. Filed April 27, 1882. W. C. Robards, clerk.

57 *General and Special Demurrer and Original Answer of E. V & A. H. Steagall. Filed 27 Ap'l, 1882.*

In U. S. Circuit Court, W. District of Texas, at San Antonio.

PILAR G. DE SABARIEGO *et al.*
vs.
M. A. MAVERICK *et als.* } No. 53.

And now comes the defendants, E. V. Steagall and A. H. Steagall, and by way of answer to plaintiffs' petition say—

That the same is insufficient in law, in manner, and form as brought to have or to maintain any relief, and of this they pray judgment.

SHARK AND DITTMAR,
Att'ys for Def't Steagall.

And by way of sepcial exceptions these defendants say—

That on the face of the petition the cause of action appears to be a stale demand; that it likewise appears that the same is barred by the statute of limitations. Whereupon defendants pray judgment.

SHARK AND DITTMAR,
Att's for Def'ts, E. V. and A. H. Steagall.

58 In U. S. Circuit Court, Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et als.* } No. 53.

And now comes the defendants, E. V. Steagall and her husband, A. H. Steagall, and answer plaintiffs' petition, and say that they deny all and singular the allegations in plaintiffs' petition contained, and say that they are not guilty; that these defendants claim title to the following lot or parcel of land in the city of San Antonio, Bexar county, and State of Texas: A lot in block sixteen (16), in the city of San Antonio, having a front of twenty varas on the west side of Avenue "C;" beginning seventy (70) varas from the southeast corner of block 16, thence about N. 17¾° E. along the line of Avenue "C," a front of twenty varas, with sides perpendicular to said avenue, and extending to an alley for depth, together with all and singular the rights, members, hereditaments, and appurtenances to the same belonging or in anywise incident or appertaining. For more particular description reference is made to the records of the deeds, vol. 13, p. 62, etc.

59 That defendants own and claim said premises as their homestead, together with all and singular the rights, members, parts, hereditaments, and appurtenances to the same belonging or in anywise incident or appertaining; and that defendants further say that plaintiffs never had any claim to said property nor to any part of it; that this pretended claim does not embrace said premises nor any part of them.

And these defendants further say that if plaintiffs ever had any claim to said premises or to any part thereof, which is not admitted, but denied, that then plaintiffs' claim is a stale demand; that through their laches and gross neglect, they failing to make any reclamation or to even make known their claim, if any they have, which is denied, for more than fifty years, they have lost all right to any relief whatever.

That for more than sixty years neither plaintiffs nor those under whom they claim have exercised any dominion or right of ownership whatever over the property aforesaid; that plaintiffs paid no taxes, no assessments, nor any other charges upon the said
60 premises, but, on the contrary, allowed others to possess, to claim, to improve the same, and to treat it as their property without any protest or reclamation.

That thus plaintiffs estopped themselves from now claiming the same or any part thereof, plaintiffs in truth and in fact, long before the filing of this suit, having abandoned any and all claim to said property; that these defendants and those under whom they claim have paid all taxes to State, county, and city, have borne all burdens, and paid all assessments and charges, amounting to more than, say, two thousand dollars; that all those payments were compulsory under the law, and were made by these defendants and those under whom they claim as owners in good faith; and if it should be adjudged that plaintiffs are owners, than these defendants claim judgment against plaintiffs for those payments thus made, and that they be a charge upon the land.

And these defendants further say that they and those under whom they claim have been in actual, peaceable, and adverse and
61 continuous possession of said premises for more than sixty years next previous to filing of plaintiffs' petition.

That these defendants and those under whom they claim have been in peaceable, continuous, and adverse possession of said premises under title, to wit, a regular chain of transfer down to these defendants in possession from and under the sovereignty of the soil for more than three years next after plaintiffs' cause of action had accrued, if ever they had any, which is denied; that these defendants and those under whom they claim have been in peaceable, continuous, and adverse possession of said premises under color of title, to wit, a consecutive chain of transfer from and under the sovereignty of the soil down to these defendants in possession without being regular as defined by statute, such defect not extending to or including the want of intrinsic fairness and honesty, for more than three years next after plaintiffs' cause of action had accrued, if they ever had any, which is denied; that plaintiffs have failed to institute their suit against these defendants, who are and were
62 in continuous, peaceable, and adverse possession of said premises under title, and also under control of title, within three years next after plaintiffs' pretented cause of action had accrued.

That defendants, under title and under color of title as defined by statute, have had more than three years' actual, continuous, peace-

able, and adverse possession of said premises next previous to the institution of plaintiffs' suit. And these defendants therefore plead the three years' statute of limitation in bar of plaintiffs' action.

And these defendants further say that they, or those under whom they claim, have had more than five years' continuous, peaceable, and adverse possession of said premises, cultivating, useing, and enjoying the same and paying taxes thereon, and claiming under deed and under deeds duly registered next previous to the institution of plaintiffs' suit.

That plaintiffs have failed to institute their suit within five years next after the accrual of their pretended cause of action, these
63 defendants, and those under whom they claim, having had continuous, peaceable, and adverse possession of said premises, cultivating, useing, and enjoying the same and paying taxes thereon, and claiming under deeds duly registered during all that time.

And these defendants therefore plead the five years' statute of limitation in bar of plaintiffs' action.

And these defendants further say that they, and those under whom they claim, have had more than ten years continuous, peaceable, and adverse possession of said premises, cultivating, useing, and enjoying the same for more than ten years next previous to the institution of plaintiffs' suit.

That plaintiffs failed to institute their suit within ten years next after the accrual of their alleged cause of action, these defendants, and those under whom they claim, having had continuous, peaceable, and adverse possession of said premises, cultivating, useing, and enjoying the same during all that time.

And these defendants therefore plead the ten years' statute of limitation in bar of plaintiffs' action.

64 And these defendants further say that the plaintiffs are aliens and always were aliens and not subject to the laws of the State of Texas touching the disability to sue; that therefore the statute of limitation run against them and against each of them without interruption.

And these defendants further say that they and those under whom they claim have had adverse possession in good faith of the premises in controversy for more than one year next after the commencement of this suit, and that they and those under whom they claim have made permanent and valuable improvements on the lands sued for during the time they have had such possession; that they have erected their homestead upon said premises and made the following improvements, to wit:

One house of eight rooms and two halls, two verandas with tin roof, plastered throughout, with water pipes in all rooms, being a frame building two story high, valued at	$3,000 00
Yard fence, valued at	130 00
Sidewalk, " "	150 00
Filling up lot, valued at	100 00

65	Walks in yard of gravel and sand	30 00
	Flowers and shrubbery	30 00
	Fruit trees and grape-vines	30 00
	Privy	40 00
	Grape-arbors and horse-stall	25 00
		$3,535 00

And these defendants pray that, in case the plaintiffs prevail, these defendants have judgment for their improvements against the plaintiffs.

And these defendants further say that heretofore, to wit, on the first of October, A. D. 1878, for and in consideration of the sum of twelve hundred dollars to Geo. M. Maverick paid, and secured to be paid by these defendants, the said Geo. M. Maverick, now a resident citizen of San Antonio, Bexar county, State of Texas, sold the above-described lot of land unto defendant, E. V. Steagall, said transaction being evidenced by an instrument in writing dated the date aforesaid and signed by said Geo. M. Maverick and by your defendants, E. V. and A. H. Steagall, and delivered by said Maverick unto your defendants, and duly recorded in the records of Bexar Co. registry, in vol. 13, p. 62 and 63; that afterwards all purchase-money and interest thereon was duly paid by your defendants unto said Maverick, and the receipt
66 thereof duly acknowledged by him in writing, signed and delivered by him to your defendants, said Maverick acting through his agent and attorney-in-fact, W. H. Maverick; that said purchase was made with the separate funds of defendant, E. V. Steagall, the intention being that said lot be the separate property of defendant, E. V. Steagall; that among other clauses and covenants the said instrument conveying said lot contains in substance the following warranty, to wit:

That the said party of the first part, to wit, the said Geo. M. Maverick, binds himself and his heirs, executors and administrators, to warrant and forever defend the said premises, to wit, the said lot of land so sold as aforesaid unto the said party of the second part, to wit, to your defendant, E. V. Steagall, and his heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof; that thereby and by reason thereof said Geo. M. Maverick became liable and bound to defend this suit, and, in case plaintiffs prevail, to refund to this defendant, E. V. Steagall, the purchase-money so paid to said Maverick as aforesaid, to
67 wit, the sum of twelve hundred dollars ($1,200.00), together with interest thereon from said first day of October, A. D. 1878, at the rate of eight per cent. per annum and all costs of suit.

And these defendants pray that said Geo. M. Maverick be cited as their warrantor to defend this suit and to make good his warranty.

And they further pray that the court adjudge that plaintiffs take nothing by their suit, and if that be not done they pray judgment in their favor and against plaintiffs for $2,000.00 taxes, burdens,

and assessments, etc., as specified in this answer, the same to be a charge upon the land in controversy.

They also pray judgment for their improvements against plaintiffs, the same to be a charge upon the land in controversy.

They also pray judgment against said warrantor, Geo. M. Maverick, as above specified.

And also for all such other, further, and general and special relief in the premises as may be deemed just and proper.

SHOOK AND DITTMAN,
Att'ys for Defendants, E. V. and A. H. Steagall.

68 [Endorsed:] No. 53. P. G. de Sabariego *et al. vs.* M. A. Maverick *et als.* General and special demurrer, and original answer of E. V. and A. H. Steagall. Filed April 27th, 1882. W. C. Robards, clerk, per E. S. Niccolls, deputy.

69 *Answer of Defendants, Degener, Doeer, and Schumacher.*

And afterwards, on the 2d day of October, A. D. 1882, the following answers were filed, endorsed, to wit:

No. 53. Sabariego & Wife *vs.* M. A. Maverick *et al.* Answers of defendants, Degener, Doeer, and Schumacher. Filed Oct. 2, 1882. W. C. Robards, clerk, by W. McMaster, deputy.

Answer of Def'ts, Degener, Doer, & Schumacher. Filed Oct. 2d, 1882.

70 In [the] Circuit Court [of the] U. S. for Western Dist. of Texas.

SABREGO & WIFE *vs.* GEO. W. MAVERICK *et al.*

In this cause — defendants, E. Degener & Mary Degener, H. A. Doeer & Bertha Doer, & Mrs. M. Schumacher, by att'y, and defend the force and injury complained of, and say that they are not guilty of said supposed wrongs, injuries, and tresspasses abovesaid to their charge, or any or either of them, in manner and form as the said plaintiffs complain against them, and of this they put themselves upon the country.

And for further plea in their behalf the said defendants say that the said plaintiffs ought not to have and maintain their aforesaid action thereon against them, because they say that they have had and held peaceble, continuous, uninterrupted, and exclusive adverse possession under title from and under the sovereignty of the soil of the lands and tenements claimed in said plaintiffs' petition for more than three years next before the commencement of this suit, and
71 this they are ready to verify. Whereupon he prays judgment.

And for further plea in their behalf defendants say that they and those whose estate they have, claiming the same under the deeds duly registered, have had peaceable, continuous, uninterrupted, and exclusive adverse possession of the land and tenements claimed in said plaintiffs' petition, cultivating, using, and enjoying and paying all the taxes thereon for a period of more than five years next be-

fore the commencement of this suit, and this they are ready to verify. Wherefore they pray judgment.

And for further plea in their behalf defendants say that they, claiming to have good and perfect right and title thereto, have had and held peaceable, continuous, exclusive, and adverse possession of the lands and tenements claimed in said plaintiffs' petition, cultivating, useing, and enjoying the same for a period of more than 10 years next before the commencement of this suit, and this they are ready to verify. Wherefore they pray judgment.

And for further plea in their behalf defefidants say that they, claiming to be the true and lawful owners thereof, have had
72 and held peaceable, continuous, exclusive, and adverse possession of the lands and tenements and premises claimed in said plaintiffs' petition for more than 10 years next before the commencement of this suit, and that the said plaintiffs, for the said term of 10 years, *hath* not made entry thereon. Wherefore, by reason of said plaintiffs' non-entry on said lands and premises as aforesaid, they are barred forever of their rights of recovery against these defendants, and this they are ready to verify. Wherefore they pray judgment.

And for further plea in their behalf defendants say that should it be decided by the court that said plaintiffs have better title to the said premises, that then they suggest to the court that they have had adverse possession of their respective premises in good faith for more than one year next before the commencement of this suit, and that they have made permanent and valuable improvements on said premises—the said E. Degener [and] M. Degener of the value of $12,500 *dollars*, the said def'ts, H. A. Doer & B. Doer, of the value of 6,000.00 dollars, and the said
73 defendant, M. Schuhmacher, of the value of 5,000.00 dollars, said improvements having been made by the said defendants during the time said defendants have had such possession of the said land & premises, and this they are ready to verify. Wherefore they pray judgment for the value of said improvement as aforesaid.

And for further plea in their behalf defendants say that on the days hereinafter specified and for the sums hereinafter specified defendants purchased of the parties hereinafter specified the property hereinafter specified, and being part of the property claimed by plaintiffs, to wit, E. Degener & M. Degener, for the sum of 1,090 dollars, paid to Mrs. Mary A. Maverick & Mary A. Maverick, executrix, on the 30th day of May, 1872, & 11th day [of] Feb'y, 1873: Lot No. 12, corner of Avenue "C" and Travis street, in city of San Antonio, Bexar county, Texas; deeds recorded [in] book X No. 1, pages 10 & 268 & 269; H. A. Doer and B. Doer, for the sum of 750.00; paid to Mrs. Mary A. Maverick, executrix, by Geo. M. Maverick on the 1st day of August, 1871; lot No. 1, corner
74 of Avenue "C" and Travis street, in city of San Antonio, Bexar Co., Texas; deed recorded in book "W" No. 1, page 315; Mrs. M. Schuhmacher, for the sum of $2,300.00; paid to B. Grossenbacher on 28th day of November, 1877; lot No. —, block No. 24, on Avenue "D," city [of] San Antonio, Bexar Co., Texas, re-

corded in book —, vol. 7, page 363—all of Bexar county records; that the said Mary A. Maverick, for herself and as executrix, and Ben. Grossenbacher, in said deeds to said defendants, bind themselves, their heirs, executors, and administrators, to warrant and forever defend the title to said premises, as above described, unto the said defendants against every person whomsoever lawfully claiming or to claim the same, or any part thereof; that by reason thereof the said Mrs. Mary A. Maverick and B. Grossenbach became liable and bound to defend this suit, and in case plaintiffs' prevail to refund to these defendants their purchase-money so paid as aforesaid, to wit: Mrs. Mary A. Maverick to E. Degener, the sum of $1,090; to H. A. Doer, the sum of $750.00, and B. Grossenbacher to Mrs. M. Schumacher, the sum of $2.300, together with legal
75 interest thereon from the dates of said deeds, as above specified, respectively, and costs of suit; and these defendants further pray that Mrs. Mary A. Maverick and the legal representatives of B. Grossenbacher, Mrs. Grossenbacher, executrix, be cited as warrantors to defend this suit and to make good their warranty. And for further plea in their behalf these defendants and those under whom they claim say that they have paid all legal State, county, and municipal taxes and other legal assessments and burdens due and legally levied on said lots and to the following sums, to wit:

E. Degener and M. Degener, State and county taxes	$760 30
City taxes	800 00
City assessment for street and sidewalk improvements	200 00
	$1,760 30
Interest thereon	400 00
Total	$2,160 30
H. H. Doer and B. Doer, State and county taxes	356 20
City taxes	264 50
City assessment for street and sidewalk improvements	80 00
	800 70
Interest thereon	200 00
Total	$1,000 70
76 Mrs. M. Schuhmacher, State and county taxes	450 00
City taxes	350 00
City assessments for street and sidewalk improvements	100 00
	900 00
Interest	100 00
Total	1,000 00

That all of said payments aforesaid were compulsory under the law and were made by these defendants and those under whom they

claim as owners in good faith, and if it should be adjudged that plaintiffs have better title, then these defendants claim and ask for judgment against plaintiffs for said sums of money so paid by them for taxes and assessments and other burdens levied, and that they be a charge upon said lands.

Defendants pray that plaintiffs take nothing by their suit, and if that be not done, they pray judgment in their favor and against plaintiffs for the am'ts as above specified for taxes, assessments, and burdens, the same to be a charge upon the land in controversy.

They also pray judgment for improvements against plaintiffs,
77 and also judgment over against warrantors, as above specified, and such other relief, general and special, as may be just and proper.

WURZBACH AND COPELAND,
Attorneys for Degener, Doer, & Schumacher.

Endorsed: No. 53. Sabriego & Wife *vs.* G. W. Maverick *et al.* Answer of def'ts, Degener, Doer & Schumacher. Filed Oct. 2nd, 1882. W. C. Robards, clerk, by W. McMaster, dep.

78 *Answer of the Trinity Methodist Episcopal Church.*

And afterwards on the 6th day of October, A. D. 1882, the following answer was filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Original answer of Trinity Methodist Episcopal Church. Filed October 6th, 1882. W. C. Robards, clerk.

79 *Answer of T. M. E. Church. Filed 6th Oct.*, 1882.

SABARIEGO *et als. vs.* MAVERICK *et als.*

Now comes the Trinity M. E. Church, one of the defendants herein, by attorneys, and defends the force and injury, and says that this defendant is not guilty of the supposed wrongs, injuries, and trespasses in plaintiffs' petition charged, or of any part thereof in manner and form as the said plaintiffs have complained, and of this defendant puts itself upon the country.

And for further plea defendant says that this defendant and those under whom he claims have had adverse possession in good faith for more than one year before the commencement of this suit of the following-described property, to wit, a lot or parcel of land situated in the city of Antonio, county of Bexar, and State of Texas, and on the corner of Avenue C and Pecan, and on the west side of said Avenue C, and on the south side of Pecan street, and having a front on Avenue C of 93 feet on said Avenue C, and that while in said possession of said property defendants has made permanent and valuable improvements on said land, consisting of one large stone building of the value of fifteen thousand dollars [and] one
80 stable of the value of two hundred and fifty dollars.

Endorsed. No. 53. Pilar Garcia de Sabariego *et al. vs* Mary A.

Maverick *et al.* Original answer of Trinity Methodist Episcopal Church. Filed Oct. 6th, 1882. W. C. Robards, clerk.

81 *First Amended Original Answer of Mary A. Maverick et al.*

And afterwards, on the 3d day of October, A. D. 1883, the following answers were filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* First amended original answer. Filed Oct. 3d, 1883. W. C. Robards, clerk.

82 *Original Answer of Mary A. Maverick et als. Filed 3d October, 1883.*

In the Circuit Court of the United States for the Western District of Texas, Sitting at San Antonio.

PILAR GARCIA DE SABARIEGO *et als.*

vs.

MARY A. MAVERICK *et als.*

Now comes the defendants, Mary A. Maverick, George M. Maverick, Sam. Maverick, Wm. H. Maverick, Albert Maverick, Edward H. and Mary Terrell, his wife; J. H. Kampman, Jacob Waelder and his wife, Ada Waelder, and, having obtained leave of the court so to do, file this their amended original answer in lieu of their original answer filed on the 8th day of October, 1881.

And came also the said Mary A. Maverick, as executrix and devisee under the last will and testament of Samuel A. Maverick, deceased; and the said George M. Maverick, Sam. Maverick, Wm. H. Maverick, Albert Maverick, Mary Terrell, joined by her said husband, Edward H. Terrell, all devisees and heirs of the said Samuel A. Maverick, deceased, and jointly defend the title to that portion of the property in controversy, which is claimed as against Frances E. Vance individually and the said Frances E. Vance and J. M. Vance, as executors of the estate of William Vance, deceased, and

83 Mary Vance, wife of J. M. Vance, and as against Mrs. C. Sweet and Miss Annie Sweet, as against Mrs. E. A. Patton, and as against the city of San Antonio, to lot on Ave. "C," in block 19, they defending the title of the said Vances, Sweets, and Patton, and for said city of San Antonio, by reason of the warranty of such title by the said Samuel A. Maverick, deceased; and they also, as warrantors, defend the title of the following defendants herein, to wit:

The said M. A. Maverick, as warrantor of Bertha and H. A. Doerr; Edward and Mary Degener. J. P. & Mary E. Reed, C. M. and Sarah S. Terrell, Herman D. and Elizabeth Kampman, Mary Schumacher, E. Dillon, Fritz Steiner, P. Immecke, the trustees of the Temple Beth-El (Jewish synagogue), the trustees of the Baptist church, Helen and A. Michael; Wm. H. Maverick and wife, as warrantors of Louise and D. Oppenheimer; E. H. & Mary Terrell, as warrantors of H. Michael; and the trustees of Trinity Methodist Episcopal church;

George M. Maverick, as warrantor of E. V. and A. H. Steagall and J. P. and Mary Reed; and Albert Maverick of Ed. Steves.

The seperate pieces of the land sued for as owned or claimed by the several defendants, whither answering by themselves or
84 by their respective warrantors, are designated by their respective names upon the map to plaintiffs' petition, which map, however, is not here referred to as an acknowled-ment of any right of the plaintiffs to any part of the land sued for.

And therefore the said defendants appearing for themselves in their own right respectively, and those being represented as aforesaid by their warrantors, for answer in this behalf plead not guilty; they say that they are not guilty of the injury or injuries complained of in the petition filed by the plaintiffs against them.

Further answering the said defendants, by themselves and through their warrantors, say that they are the owners in fee-simple of the pieces or lots of land as designated upon the map aforesaid.

Further answering the said defendants, when appearing for themselves and their warrantors of such defendants as are so represented, say that they and those under whom they claim have had and hold peaceable and adverse possession of the lot or lots respectively held and claimed by them under titile under the sovereignty of the soil for more than three years prior to the institution of this suit, and that they have had and held such peaceable and adverse possession under color of title of the said lots for more than three years before the institution of this suit.

85 Wherefore they plead the statute of limitations of three years.

Further answering the said defendants as aforesaid say that they and those under whom they claim have held and had peaceable and adverse possession of the lot or lots severally and respectively claimed by them, cultivating, useing, and enjoying the same, and paying taxes thereon, and claiming under deeds duly registered for more than five years prior to the institution of this suit.

Wherefore they plead the statute of limitations of five years.

Further answering the said defendants as aforesaid say that they and those under whom they claim have had and held peaceable possession of the lots aforesaid, cultivating, useing, and enjoying the same for more than ten years prior to the institution of this suit.

Wherefore they plead the statute of limitations of ten years.

Further answering the said defendants as aforesaid say that they and those under whom they claim have had and held peaceable and adverse possession of the lots aforesaid and of the entire property in controversy in this suit for sixty years prior to the institution of this suit.

Wherefore they say that such possession, peaceable and adverse, without claim or interruption from any source raises the
86 presumption of a deed or grant from the sovereignty of the soil or from any other lawful owner of the superior title, if such an one existed (which, however, is now and always denied).

And they further say that the claim set up by the plaintiffs in this suit is a stale demand.

Further answering as aforesaid, the said defendants say that if the said plaintiffs ever had any right, title, or claim to the property in controversy, or any part of it, they are estopped from now setting up such right, title, or claim for the reason that during sixty years of peaceable and adverse possession held by these defendants and those under whom they claim they, the said plaintiffs, have failed to exercise or attempt to exercise any dominion or right of ownership over the same or to pay any attention thereto or to pay any of the taxes or other charges upon the same.

Further answering as aforesaid, the defendants say that the plaintiff, Pilar Garcia de Sabariego, and her husband, Manuel Sabariego, are aliens to the State of Texas; that they are not now, as stated in their petition, citizens or residents of the State of Texas; that they never were such citizens or residents, or if they ever lived in the territory comprising the State of Texas they voluntarily
86½ abandoned the same before said Territory became either the Republic or State of Texas; that they never did and never intended to return to the same, but voluntarily remained away and are and became aliens of their own free will and choice. Wherefore they cannot maintain this suit in the courts of Texas or in any of the courts of the United States.

Wherefore the said defendants, appearing for themselves and the warrantors aforesaid of the remaining defendants, pray for judgment in their favor for all costs in this behalf expended and for general relief.

The defendants, Mary A. Maverick, George M. Maverick, Wm. H. Maverick, Sam. Maverick, Albert Maverick, Edward H. and Mary Terrell, J. H. Kampman, Herman D. & Elizabeth Kampman, C. M. and Sarah S. Terrell, and Jacob and Ada Waelder, further answering in the foregoing behalf, say that they and those under whom they claim have had adverse possession in good faith of those portions of the premises in controversy severally and respectively claimed by them, being designated upon the map hereinbefore referred [to] and marked with their names, respectively, for more than one year next before the commencement of this suit,
87 and that they and those under whom they claim have made permanent and valuable improvements upon their respective lots or pieces of the land claimed by them during the time they have had such possession; that they and those under whom they claim, in good faith and for full value, purchased the lots and pieces of land respectively claimed, without notice, either actual or constructive, of the claim now set up by plaintiffs, or of any adverse claim on the part of any one.

The improvements aforesaid made by them and those under whom they claim, and of the description and value as follows, to wit:

The said Mary A. Maverick has upon her lot, between Ave. "D" and Ave. "C"—

One 2-story dwelling of the value of	$15,000 00
" 1 " " " "	2,000 00
" 2 " stone house " "	5,000 00
Stable, outhouses, fencing, & sidewalk	3,000 00
One sash factory of the value of	2,000 00
Of the total value of	$27,000 00

The improvements upon the lots of George M. Maverick are on lot fronting on Houston street, between Avenue C and Avenue D, and at the corner of Avenue C, store building of the value of $9,000 00
Between Avenue C and Jefferson street buildings of the value of 6,000 00

88 Of the [total] value of $15,000 00

The said W. H. Maverick has upon his lot on Houston street, between the property of the Vances and Jefferson street, workshops of the value of $1,500 00
Sidewalks, fencing, and outhouses of the value of 1,000 00

Of the total value of $2,500 00

The improvements of Albert Maverick on lot on Avenue C are a two-story dwelling house of the value of $8,000 00
Two-story stable, barn, & sheds, value 1,000 00
" " carriage & servants' house, value 1,500 00
Cistern, shrubbery, & fencing, " 1,000 00

Of the total value of $11,500 00

The improvements of E. H. & Mary Terrell upon lot on Travis street are a two-story dwelling house of the value of $8,000 00
One two-story stable and servants' house of the value of 2,000 00
Cistern, fencing, & shrubbery 1,000 00

Of the total value of $11,000 00

The improvements of J. H. Kampman upon lot at corner of Houston and Jefferson streets consist of a store-house (formerly known as the Alamo Literary Hall) of the value of $16,000 00
Sidewalk and fencing of the same, valued 8,000 00

Of the total value of $16,800 00

The improvements of Herman D. and Elizabeth Kampman upon lot corner of Avenue C and Travis streets are a two-story dwelling house of the value of	$9,800 00
Stable and out buildings of the value of	1,000 00
89 Fencing of the value of	200 00
Sidewalk and shade trees and shrubbery of the value of	600 00
Altogether of the value of	$11,600 00
The improvements of C. M. & Sarah S. Terrell upon lot on Avenue C are a two-story dwelling house of the value of	$15,000 00
Sidewalk & fencing of the value of	300 00
Shrubbery & shade trees of the value of	1,000 00
Of the total value of	$16,300 00
The improvements of Ada and Jacob Waelder upon lot on Jefferson street are two-story dwelling house of the value of	$13,000 00
Gas and water pipes and fixtures of the value of	
Two-story stable of the value of	1,200 00
And one-half story wash-house of the value of	1,200 00
Wood-house and other outbuildings of the value of	2,000 00
Cistern and cistern-house of the value of	1,000 00
Fencing of the value of	300 00
Fruit and shade trees and shrubbery of the value of	1,500 00
Altogether of the value of	$20,000 00

And these defendants therefore pray further that, in case the lots claimed should be adjudged to the plaintiffs, they (these defendants) may have judgment for the value of their several improvements as above set forth, in accordance with the law in such case made and provided, as well as general relief under the law.

WAELDER & OPSON AND
HOUSTON BROS.,

90 *Att'ys for Mary A. Maverick, Geo. M. Maverick, William H. Maverick, Sam. Maverick, Albert Maverick, Wm. H. Maverick, Edward H. and Mary Terrell, in Their Own Right and as Warrantors of Other Defendants Above-Named.*

WAELDER & UPSON,

Att'ys for J. H. Kampman, H. D. & Elizabeth Kampman, C. M. & Sarah S. Terrell, Jacob & Ada Waelder.

Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs.* Mary A. Maverick *et als.* First amended original answer. Filed Oct. 3, 1883. W. C. Robards, cl'k.

91 *Original Answers of Mary C. Reed, J. P. Reed, Mrs. C. Sweet, and A. Sweet.*

And afterwards, on the 8th day of October, A. D. 1883, the following answers were filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Original answers of Mary C. Reed, J. P. Reed, Mrs. C. Sweet, and A. Sweet. Filed Oct. 8th, 1883. W. C. Robards, clerk.

92 *Original Answer of Mary C. Reed, J. P. Reed, Mrs. C. Sweet, and A. Sweet. Filed Oct. 8th, 1883.*

In Circuit Court of the U. S. for the Western District of Texas, Sitting in San Antonio.

PILAR GARCIA DE SABRIEGO *et al.*
vs.
MARY A. MAVERICK *et als.* } No. 53.

Now comes Mary C. Reed and her husband, J. P. Reed, and Mrs. C. Sweet and Miss A. Sweet, and, in answer to plaintiffs' petition herein filed, say that they are not guilty of the tresspasses in plaintiffs' petition contained; they and those under whom they claim have had adverse possession in good faith of those portions of the premises in controversy severally and respectively claimed by them, being designated upon the map hereinbefore referred to and marked with their names respectively, for more than one year next before the commencement of this suit, and that they and those under whom they claim have made permanent and valuable improvements upon their respective lots or pieces of the land claimed by them during the time they have had such possession; that they and those under whom they claim, for good faith and for full value,
93 purchased the lots and pieces of land respectively claimed without notice, either actual or constructive, of the claim now set up by plaintiffs or of any adverse claim of any one.

The improvements aforesaid made by them and those under whom they claim are of the description and value as follows, to wit:

The improvements of Mary C. Reed and J. P. Reed are upon lot and east side of Avenue "C," as follows:

One stone dwelling-house	$3,500 00
Outhouse of the value of	75 00
Fencing of the value of	125 00
Shrubbery of the value of	25 00
Sidewalks of the value of	50 00
Of the total value of	$3,775 00

One stone dwelling-house on the west side of Avenue "C"	$4,300 00
Outhouse	50 00
Cistern	150 00
Fencing	150 00
Shrubbery	25 00
Sidewalks	50 00
Of the total value of	$4,725 00

The improvement of Mrs. C. Sweet and Miss A. Sweet upon their lot and corner of Jefferson and Pecan St-. are as follows:

94	Fencing of the value of	$100 00
	Sidewalks and sh-ubbery of the value of	300 00
	Of the total value of	$400 00

And these defendants, therefore, pray further that, in case the lots claimed by them should be adjudged to the plaintiffs, they, these defendants, may have judgment for the value of their improvements, as above set forth, in accordance with the law in such cases made and provided, as well as general relief under the law.

WAELDER AND UPSON,
HOUSTON BROS.,
Att'ys for Mary C. and J. P. Reed and Mrs. C. Sweet and Miss A. Sweet.

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* M. A Maverick *et als.* Filed Oct. 8th, 1883. W. C. Robards, cl. Original. answer of Mary C. Reed, J. P. Reed, Mrs. C. Sweet, & A. Sweet.

95 *Original Answers of Defendants Steiner and Immecke.*

And afterwards, on the 1st day of March, A. D. 1884, the following answers were filed, endorsed, to wit:

No. 53. Sabariego & Wife *vs.* Mary A. Maverick *et al.* Original answers of defendants Steiner and Immeke. Filed March 1, 1884. W. C. Robards, clerk.

96 *Original Answer of Defendants Steiner and Immeicke. Filed M'c'h 1st, 1884.*

In Circuit Court of U. S. for Western District of Texas.

SABREAGO & WIFE
vs.
G. W. MAVERICK *et al.* } No. 53.

In this cause comes defendants Fritz Steiner and Philip Immeicke, by attorney, and defend the force and injury complained of, and say that they are not guilty of the supposed wrongs and injuries and trespasses above laid to their charge in manner and form as the said plaintiffs complain of, and of this they put themselves upon the country.

And for further plea in their behalf the said defendants say that the said plaintiffs ought not to have and maintain their said action thereon against them, because they say that they have had and held peace-ble, continuous, uninterrupted, and exclusive adverse possession under sovereignty of the soil of the lands and tenements claimed in said plaintiffs' petition for more than three years next before the commencement of this suit, and this they are ready to verify, and of this they pray judgment.

And for further plea in their behalf they say that they and those whose estate they have, claiming the same under deeds duly registered, have had peace-ble, continuous, uninterrupted, and adverse possession of the lands and tenements claimed in said plain-
97 tiffs' petition, cultivating, using, and enjoying and paying all taxes thereon for a period of more than five years next before the commencement of this suit, and this they are ready to verify, and of this they pray judgment.

And for further plea in their behalf they say that they, claiming to have good and perfect right and title thereto, have had and held peace-ble, continuous, exclusive, and adverse possession of the lands and tenements claimed in said plaintiff's petition, cultivating, useing, and enjoying the same for a period of more than ten years next before the commencement of this suit, and this they are ready to verify, whereupon they pray judgement.

And for further plea in their behalf defendants say that they, claiming to be the true and lawful owners thereof, have had and held peace-ble, continuous, exclusive, and adverse possession of the lands and tenements and premises claimed in said plaintiffs' petition for more than ten years next before the commencement of this suit, and that the said plaintiffs for the said term of ten years have not made entry thereon; wherefore, by reason of said plaintiffs' non-entry on said lands and premises as aforesaid, they are barred
98 forever of their rights of recovery against these defendants, and this they are ready to verify, and of this they pray for judgement.

And for further plea in their behalf defendants say that should it be decided by the court that said plaintiffs have better right and title to the said premises, that then they suggest to the court that they have had adverse possession of their respective premises in good faith for more than one year next before the commencement of this suit, and that they have made permanent and valuable improvements on said premises to the value of six thousand dollars ($6,000.00), said improvements having been made by the said defendants during the time said defendants have had such possession of the said lands and premises, and this they are ready to verify; wherefore they pray judgement for the value of said improvements as aforesaid.

And for further plea in their behalf defendants say that, on the 5th day of August, A. D. 1872, defendants purchase- and paid for lot No. 3, block No. 23, being part of the premises claimed in plaintiffs' petition; that they purchased said lot of Mrs. Mary A. Maverick and M. A. Maverick, executrix, for the sum of ($600.00) six hun-

99 dred dollars, under deed duly recorded in book H No. 1, page 79, records of Bexar county; that the said Mary A. Maverick, for herself and as executrix in said deed to said defendants, bind themselves, their heirs, executors, and administrators, to warrant and forever defend the title to said premises as above described unto the said defendants against every person whomsoever lawfully claiming or to claim the same or any part thereof.

That by reason thereof the said Mary A. Maverick, for herself and as executrix, became liable and bound to defend this suit, and in case plaintiffs prevail to refund to these defendants their purchase-money so paid as aforesaid, to the amount of six hundred dollars ($600.00), together with legal — thereon from the date of said deeds, as above specified, and costs of suit, and defendants pray that Mrs. M. A. Maverick, for herself and as executrix, be cited as warrantor to defend this suit and to make good their warranty.

And for further plea in their behalf these defendants and those under whom they claim say that they have paid all legal
100 State, county, and municipal taxes and other legal assessments and burdens due and legally levied on said premises, to wit, the sum of one thousand dollars ($1,000.00); that all of said payments aforesaid were compulsory and under the law, and were made by these defendants and those under whom they claim as owners in good faith, and if it should be adjudged that plaintiffs have better title then these defendants claim and ask for judgment against plaintiffs for said sums of money so paid by them for taxes, assessments, and other burdens so levied, and that they be a charge upon said land. Defendants pray that plaintiffs take nothing by their suit, and if that be not done they pray judgment in their favor and against plaintiffs for the amounts as above specified for taxes, assessments, and other burdens, the same to be a charge upon the land in controversy. They also pray judgment against plaintiffs for the value of their improvements, and they also pray judgment *over* against their warrantors, as above specified, and such other relief, general and special, as may be just and proper.

C. L. WORZBACH,
Att'y for Def'ts Steiner and Immeicke.

101 Endorsed: No. 53. Sabreago & Wife *vs.* G. W. Maverick *et al.* Original answer of defendants Steiner and Immeicke. Filed Mar. 1, 1884. W. C. Robards, clerk.

102 *First Amended Original Answer of the Defendants, The City of San Antonio.*

And afterwards, on the 4th day of March, A. D. 1884, the following first amended original answer was filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Filed March 4th, 1884. W. C. Robards, clerk. First amended original answer of the defendant, The City of San Antonio.

103 *First Amended Original Answer of the Defendant, The City of San Antonio. Filed March 4th*, 1884.

In Circuit Court of the U. S. for the Western Dist. of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et als.*
} No. 53.

And now comes the defendant, The City of San Antonio, and, with leave of court first had, amends the original answer of said city filed in the above-styled cause on the 14th day of October, A. D. 1881, and in lieu thereof substitute- this the first amended original answer of said city, and says that this defendant denys all and singular the allegations in plaintiffs' petition contained, and further say- that this defendant is not guilty of the wrongs and tresspasses complained of in plaintiffs' petition; that this defendant claims title to the following lot and parcels of land in the corporate limits of the City of San Antonio, county of Bexar, and State of Texas, to wit: Lot No. 3 in block No. 19, having a front of 22 varas on Avenue "C," marked on the map or plat filed with plaintiffs' petition as the property of "Fire Co. No. 2;" also those portions of the following-named public streets and a public square included in the
104 claim of plaintiffs, as shown by the said map of plaintiffs filed with the said petition, to wit, Houston street, Jefferson St., Avenue "C." Travis St., Pecan St., an alley marked on said map but not named, Avenue "D," and Travis square.

That said map [is] herein referred to for a more particular description of said property, but not as an acknowledgment of any right of the plaintiffs to any part of the land sued for.

That the defendant further says that the said plaintiffs never had any claim to said property nor to any part thereof; that this pretended claim does not embrace said premises nor any part of them.

And this defendant further says that if plaintiffs ever had any claim to said premises or any part thereof, which is not admitted, but denied, that then plaintiffs' claim is a stale demand; that through their laches and gross neglect, they failing to make any reclamation, or to even make known their claim, if any they have, which is denied, for more than fifty years, they have lost all right to any relief whatever; that for more than sixty years neither
105 plaintiffs nor those under whom they claim have exercised any dominion or right of ownership whatever over the property aforesaid; that plaintiffs have paid no taxes, no assessments, nor any other charges upon said premises, but on the contrary allowed others to possess, to claim, to improve the same, and to treat it as their property without any — or reclamation that these plaintiffs estopped themselves from now claiming the same or part thereof, plaintiffs in truth and in fact long before the filing of this suit having abandoned any and all claim to said property.

And this defendant further says that those under whom this defendant claims have been in actual, peace-ble, and adverse and con-

tinuous possession of said premises for more than sixty years next previous to filing of plaintiffs' petition.

Further answering, this defendant says that the said City of San Antonio and those under whom said city claim- have had and held peaceable [and] adverse possession of the said lot and parcels of land
under title under the sovereignty of the soil for more than
106 three years prior to the institution of this suit, and that they
have had and held such peaceable and adverse possession under color of title for more than three years before the institution of this suit; wherefore the said city pleads the statute [of] limitations of three years.

Further answering, said defendant says that said city and those under whom said city claims have had and held peaceable and adverse possession of said property, marked on said map as the property of Fire Co. No. 2, cultivating, useing, and enjoying the same, and paying taxes thereon, and claiming under *under* deeds duly registered, for more than five years prior to the institution — suit; wherefore the said city pleads the statute of limitations of five years as to said property.

Further answering, this defendant says that the said city and those under whom the said city claims have had and held peaceable possession of the property aforesaid, cultivating, useing, and enjoying the same, for more than ten years prior to institution of this suit.

Further answering, this defendant says that the plaintiff,
107 Pilar Garcia de Sabariego, and her husband, Manuel Sabariego, are aliens to the State of Texas; that they are not now, as stated in their petition, citizens or residents of the State of Texas; that they never were such citizens or residents, and if they ever lived in the territory comprising the State of Texas they voluntarily abandoned the same before said territory became either the Republic or State of Texas; that they never did and never intended to return to the same, but voluntarily remained away, and are and became aliens of their own free will and choice; wherefore they cannot maintain this suit in the courts of Texas or any of the courts of the United States.

Further answering, this defendant says that the public square marked on said map, hereinbefore referred to, and the said public streets were dedicated to this defendant for the use of the general public more than forty years next before the filing of plaintiff's said petition; that during the whole of said last-named period, and for many years prior thereto, the said public streets have been continually and without *un*interruption used by the general public as
public highways; that such streets are delineated on the
108 maps of the municipality of San Antonio, and have always
been recognised as public streets; that at no time has this defendant or the general public failed to use such public streets.

Further answering, this defendant says that the said city and those under whom the said city claims have had adverse possession in good faith of those portions of the property in controversy claimed by said city for more than one year next before the commencement

of this suit, and that said city and those under whom said city c-aims have made valuable and permanent improvements upon the respective pieces of land claimed by said city during the continuance of such possession; that said city and those under whom said city claims have in good faith and for full value purchased said property, except such as was acquired by dedication without value, either actual or conservative, of the claim now set up by plaintiffs or of any adverse claim on the part of any one.

The improvements aforesaid made by the said city and those under whom said city claims are of the description and
109 value as follows, to wit:

One two-story engine-house of the value of	$7,000
One stable	2,500
One additional house for fire apparatus	500
For grading and m-c-damizing Avenue "C"	3,000
For grading Jefferson street	500
For fence around Travis Square	400
For one lumber pavillion on Travis Square	900
For shade trees and shrubbery, " "	500
To the expense of hydrants & water mains	500
Total	15,800

And this defendant further prays that, in case the property claimed by this defendant should be adjudged to the plaintiff, this defendant may have judgment for the value of the several improvements aforesaid as above set forth in accordance with the law in such cases made and provided, as well as general relief under the law.

And this defendant further says that on the 6th day of May, A. D. 1878, for and in consideration of the sum of four thousand two hundred and fifty-seven and $\frac{97}{100}$ dollars to the Alamo Fire Association in hand paid by this defendant, the said Alamo Fire Association, by and through H. Karber, Wm. Hoefling, F. C. Haneisen, and Chas. Degan, trustees thereof, conveyed the first
110 above-described property, to wit, lot No. 3 in block No. 19, unto this defendant; that in consideration of the premises and to evidence said sale the said trustees, acting in the behalf of said Alamo Fire Association, made, signed, and delivered unto this defendant their deed in writing; that among the other clauses and covenants said deed contains in substances the following warranty, to wit: "And we, as trustees as aforesaid, do hereby bind ourselves and our successors in office to warrant and forever defend, all and singular, the above-described property unto the said City of San Antonio forever against every person whomsoever lawfully claiming or to claim the same or any part thereof;" that thereby and by reason thereof said Alamo Fire Association became liable and bound to defend this suit, and in case plaintiff prevail to refund to this defendant the purchase-money so paid, to wit, four thousand two hundred and fifty-seven and $\frac{97}{100}$ dollars, together with interest thereon

from said 6th day of May, A. D. 1878, at the rate of eight per cent. per annum, and all costs of suit.

111 And this defendant prays that said Alamo Fire Association be cited through Wm. Hoefling, Conrad Zuschlage, F. C. Hannisen, and Chas. Degan, Sen., as warrantors to defend this cause.

This defendant further prays that the court adjudge that plaintiffs take nothing by their suit; and if that be not done, then that defendant have judgement for the said improvement against plaintiff, the same to be a charge upon the land in controversy.

Defendant also prays judgement against the Alamo Fire Association, and also for such other, further, general, and special relief in the premises as may be deemed just and proper.

S. G. NEWTON,
Att'y for Defendant, The City of San Antonio.

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et als.* Filed March 4th, 1884. W. C. Robards, cl'k. First amended original answer of the defendant, The City of San Antonio.

112 *Original Answer of the Defendants, B. B. Higgins and Wife.*

And afterwards, on the 4th day of March, A. D. 1884, the following answers were filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Filed March 4th, 1884. W. C. Robards, clerk. Original answers of defendants, B. B. Higgins and wife.

113 *Original Answer of the Defendants, B. B. Higgins and Wife. Filed March* 4, 1884.

In the Circuit Court of the United States for the Western District of Texas, Sitting at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et als.*
} No. 53

Now come Eliza M. Pendleton Higgins, joined by her husband B. B. Higgins, and by leave of the court make themselves parties to this suit, and the said Eliza M. says that she is the owner in fee-simple of the following-described property, to wit: All that certain tract of land, with all the improvements thereon, situate, lying, and being in the city of San Antonio, county of Bexar, and State of Texas, in that portion of the same known as "Alamo City," on the east side of the San Antonio river and being a portion of the land known as the "Sweet Homestead tract," and bounded on the east by an alley 62¾ varas, on the south by Pecan St., 52½ varas, on the west by a division fence, 60⅛ varas, and on the north 62½ varas, by Martin St., be the said distances more or less, being the same property conveyed to Eliza M. Pendleton, now Higgins, by Hester Pendleton by deed dated Feb'y 21st, 1878, and those defendants defend as to so much of the above-described property as is claimed by the plaintiffs

114 in this suit. And these defendants further say that none of the above-described premises is included in the "suerte" of land sued for by plaintiffs, although the map attached to plaintiffs' petition showing the boundaries and limits of the suerte sued for includes a portion of the above-described lots of land claimed by these defendants.

And for further answer these defendants adopt as their own the 1st amended original answer of Mary A. Maverick and others filed in this cause on Oct. 3, 1883, as to the plea of not guilty, the statutes of the three, five, and ten years' limitations, State demand, alienage, possessor for 60 years, estoppel—the portions of said answer adopted by these defendants being contained on pages 4 to 8 inclusive of said amended answer of the Mavericks and others.

And, further answering, these defendants say that they and those under whom they claim have had adverse possession in good faith of the above-described tract of land for more than one year next before the commencement of this suit, and that they and those under whom they claim have made permanent and valuable im-

115 provements upon said tract of land during the time they have had such possession; that they and those under whom they claim in good faith and for full value purchased the above-described property without notice, either actual or constructive, of the claim now set up by plaintiffs or of any adverse claim on the part of any one.

The improvements made in the above-described property are as follows:

One stone dwelling-house, valued at		$3,000 00
Kitchen and outhouses	"	1,000 00
Ornamental & shade trees	"	300 00
Fence	"	200 00
Sidewalks		300 00
		$4,800 00

The defendants pray that in case the above-described tract of land be adjudged to the plaintiffs that then these defendants may have judgment for the value of the above improvements in accordance with the law in such cases made and provided as well as for general relief under the law.

P. H. WARD,
Att'y for Def'ts, E. M. P. Higgins and B. B. Higgins.

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et als.* Filed March 4th, 1884. W. C. Robards, clerk. Original answer of defendants B. R. Higgins & wife.

116 *Original Answer of E. Dillon.*

And afterwards, on the 5th day of March, A. D. 1884, the following answer was filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* M. A. Maverick *et al.*

Original answer of defendant E. Dillon. Filed March 5th, 1884. W. C. Robards, clerk.

117 *Original Answer of E. Dillon. Filed 5th March*, 1884.

In Circuit Court of the U. S. for the Western District of Texas, Sitting at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.*
} No. 53.

Now comes the defendant, Edward Dillon, by attorney, and *and* defending his title to a certain tract or parcel of land situated in the city of San Antonio, county of Bexar, and State of Texas, and being one lot in block 24 and beginning at a point on Travis street 45½ varas E. of Avanue "C;" thence along Travis St. about 26 varas to Avanue "D;" thence along Avanue "D" 28⅓ varas; thence 42½ vrs. northwest to the alley; thence along the alley 53 varas, more or less, to the place of beginning, makes this his original answer—

1st. This defendant adopts as his own the plea of not guilty, and the pleas of the statute of limitations of three, five, and ten years, and the pleas of prescription, sixty years' possession, State demand, estoppel, and alienage herein made for this defendant by his warrantor, M. A. Maverick, in her first amended original answer herein filed on October 3d, 1883, to which reference is hereby made and the said pleas therein contained hereby made a part of this answer. Wherefore defendants prays for judgment, all costs, and for general relief.

118 2d. And further, answering in this behalf, this defendant says that he and those under whom he claims have had adverse possession in good faith of the tract or parcel of land hereinbefore described for more than one year next before the commencement of this suit, and that he and those under whom he claims have made permanent and valuable improvements upon the said tract or parcel of land during the time they have had such possession; that he and those under whom he claims purchased the said tract or parcel of land for full value and in good faith without notice, either actual or constructive, of the claim now set up by plaintiffs or of any adverse claim on the part of any one.

The improvements made as aforesaid by this defendant and those under whom he claims upon the said tract or parcel of land, are of the description and value as follows:

One (1) one-story dwelling-house of the value of $4,000.00; one blacksmith house of the value of $1,000.00; fencing and outhouses value, $250.00; one well, $200; shade trees, $200.00, altogether of the value of $5,650.00. And this defendant therefore prays that in case the lot claimed by him should be adjudged to the plaintiffs this defendant may have judgment for the value of five thou-

119 sand six hundred and fifty dollars, the value of *of* his said

improvements, as above set forth, in accordance with the law in such cases made and provided, as well as for general relief.

EDWARD DILLON,
By his Attorneys, Ogden, Ogden & Johnson.

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* M. A. Maverick *et al.* Original answer of def't E. Dillon. Filed March 5, 1884. W. C. Robards, cl'k.

120 *Original Answer of the Trinity Methodist Episcopal Church.*

And afterwards, on the 5th day of March, A. D. 1884, the following answer was filed, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* M. A. Maverick *et al.* Original answer of trustees [of] T. M. E. Church. Filed March 5th, 1884. W. C. Robards, clerk.

121 *Original Answer of T. M. E. Church. Filed 5th March*, 1884.

In Circuit Court of the U. S. for the Western District of Texas.
Sitting at San Antonio, Texas.

PILAR GARCIA DE SABRIEGO *et al.*
vs.
MARY A. MAVERICK *et als.*
} No. 53.

Now comes the defendants, The Trustees of the M. E. Church, by attorney, and defending their title to a certain tract or parcel of land situated in the city of San Antonio, county of Bexar and State of Texas, and being the lot at the N. E. corner of block 16, and bounded as follows: Beginning at a point on the west side of Avanue "C" 90 varas from the S. E. cor. of said block No. 16; thence north 72¼ — west on a line perpendicular to Avneue "C" to the east side of an alley; thence north along said alley to Pecan street; thence east along Pecan street about 63½ varas to Avanue "C;" thence along Avanue "C" to the place of beginning, make this, their original answer:

1st. These defendants adopt as their own the plea of not guilty and the pleas of the statute of limitations of three, five, and ten years, and the pleas of prescription, sixty years' possession, State demand, estopped, and alienage herein made for these defendants by their warrantors, E. H. & Mary H. Terrell, in their first amended original answer herein filed on October 3d, 1883, to which
122 reference is hereby made, and the said pleas therein contained — hereby made a part of this answer.

Wherefore defendants pray for judgment, all costs, and for general relief.

2d. And further answering in this behalf these defend'ts say that those under whom they claim have had adverse possession in good faith of the tract or parcel of land, hereinbefore described, for more than one year next before the commencement of this suit, and that those under whom they claim have made permanent and valuable improvements upon the said tract or parcel of land during the time they have had such possession; that they and those under whom

they claim purchased the said lot or parcel of land for full value and in good faith without notice, either actual or constructive, of the claim now set up by plaintiff-, or of any adverse claim on the part of any one.

The improvements made as aforesaid by these defendants and those under whom they claim, upon the said tract or parcel of land, are of the description and value as follows: One stone church building of the value of $12,000—twelve thousand dollars; and

123 these defendants therefore pray that the lot claimed by them should be adjudged to the plaintiff-, these defendants may have judgment for the sum of twelve thousand dollars, the value of their said improvements as above set forth, in accordance with the law in such cases made and provided, as well as for general relief.

OGDEN & OGDEN & JOHNSON,
Attorneys for Trustees of Trinity M. E. Church.

Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs.* M. A. Maverick *et als.* Original answer of trustees of T. M. E. Church. Filed March 5, 1884. W. C. Robards, cl'k.

124 *Plaintiffs' Supplemental Petition.*

And afterwards, on the 5th day of March, A. D. 1884, the plaintiffs filed the following supplemental petition:

Endorsed: No. 53. Sabariego *et al vs.* Maverick *et al.* Plaintiffs' first supplemental petition. Filed March 5th, 1884. W. C. Robards, clerk, by N. H. Kernland, deputy.

125 *Pl'ffs' 1st Sup'l Petition. Filed 5th March*, 1884.

In the Circuit Court of the United States for the Fifth Circuit and Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et als.*
vs.
MARY A. MAVERICK *et als.*
} No. 53.

Trespass to try title.

Plaintiffs, by leave of court, files this their first supplemental petition, in response to the last preceeding pleadings of each of the defendants:

1st. Plaintiffs except and generally demur to each of the several answers of defendants last filed herein and say the same are insufficient in law.

2d. Plaintiffs specially excepts and demur to those portions of defendants' answers which set up alienage of plaintiffs, and their non-residence in and abandonment of the Republic and State of Texas, and say the same is insufficient in law.

3d. Plaintiffs further specially except and demur to those portions of the answers of defendants which allege for the first time the alienage of plaintiffs, and their non-residence in and abandonment

of the Republic and State of Texas as ground of disability to the maintenance of this suit, and say that, by reason of the failure
126 to set up said matter in abatement in the due order of pleading in their original answers wherein they pleaded to the merits of the cause, it is now too late to make said defense in said amended answers.

4th. Plaintiffs specially except and demur to those portions of defendants' answers which set up and claim the value of improvements in good faith, etc., upon the grounds (1) that to allow such claims is to deprive the plaintiffs of their property without due process of law, and that the laws of Texas which authorize such claim are inhibited by the Fourteenth Amendment of the Constitution of the United States; (2) that said laws are contrary to the constitution of Texas, in this: that to force plaintiffs to pay for improvements they never authorized as a condition precedent to obtaining possession of property which rightfully belongs to them is not according to the due course of the law of the land.

5th. Plaintiffs further specially except and demur to those portions of defendants' answers which set up and claim the value of improvements in good faith upon the ground that the same presents an equitable defense and involves considerations which can only be availed of on the equity side of the court.

6th. Plaintiffs further specially except and demur to those
127 portions of defendants' answers which set up and claim the value of improvements in good faith upon the ground that the improvements therein mentioned and the several items thereof are not such as by the laws of Texas if valid compensation can be allowed for in this action.

7th. Plaintiffs specially except and demur to those portions of defendants' anwers which set up the laches, neglect, etc., on the part of plaintiffs in asserting their rights and the staleness of plaintiffs' demand upon the ground that it is no legal defense to this action, *and upon the ground that it is no legal defense to this action*, and upon the further ground that the same, if it can be availed of at all, must be addressed to the equity side of the court.

8th. Plaintiffs specially except and demur to those portions of defendants' answers which insist that plaintiffs are estopped and cannot now assert their right, because of their failure to exercise rights of ownership, pay taxes, etc., upon the ground that the matters alleged by defendants in this behalf constitute no legal defense to this action.

9th. Plaintiffs specially except and demur to those portions of the defendants' answers which set up adverse possession as rais-
128 ing a presumption of grant from *from* the sovereignty of the soil or other lawfull owner upon the ground that the same is insufficient in law.

And, without waiving the benefit of the foregoing general and special demurrers and exceptions, but relying thereon, plaintiffs says:

1st. That they deny all and singular the allegations in defendants' answers, and each of them contained.

2d. That in the year 1833 and from said year and up to the institution of this suit by the plaintiffs Pilar Garcia de Sabariego has been a feme covert and married woman, and during the whole of said period labored and still labors under the disability of being a feme covert and married woman; that her father, Francisco Garcia, died intestate at Goliad, Texas, in the year 1834, and her mother, Gertrudes Barrera de Garcia, died intestate at Matamoras, Mexico, in the year 1843; that at the time of the death of her said father and mother and from said times and to the bringing of this suit she labored and still labors under the disability of being a feme covert and married woman.

And plaintiffs plead the said disability as excepting and saving the said Pilar from the operation of all limitation laws and
129 from all presumptions of grant and any and all other presumptions and pleas in defendants' answers contained, which are not good as against a feme covert and married woman.

BERRY & ROSENHEIMER,
MASON & PASCHAL,
HANCOCK & SHELLEY, AND
A. J. PEELER, *Att'ys for Pl'ffs*

Endorsed: No. 53. Sabriego *et al. vs.* Maverick *et al.* Plaintiffs' 1st sup. petition. Filed March 5th, 1884. W. C. Robards, cl'k, by N. H. Kernland, deputy.

130 *Charge of the Court.*

And afterwards, upon the trial of said cause, to wit, March 13th, A. D. 1884, the following charge was given by the court:

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Charge of the court. Filed March 13, 1884. W. C. Robards, clerk.

131 *Charge of the Court Filed* 13 *March*, 1884.

SABARIEGO *vs.* MAVERICK. } No. 53.

GENTLEM[EN] OF THE JURY: The plaintiff in this suit brings her action to recover the land described in the petition.

The plaintiffs having now closed all their evidence upon the question of title in the pl'ff- and those under whom they claim, that evidence being documentary, and it being the opinion of this court that the evidence so introduced fails to show any title in these plaintiffs or those under whom they claim to hold, you will therefore return a verdict for the defendants.

E. B. TURNER, *Judge.*

Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs.* Mary A. Maverick *et als.* Charge of the court. Filed March 13, 1884. W. C. Robards, cl'k.

132 *Order of Dismissal as to Mrs E. A. M. Houston, C. Upson, as Executor of the Estate of — Vance, Dec'd, and Doctor J. R. Smith.*

And afterwards, on Monday, March 10th, A. D. 1884, the following proceedings were had, as appears from the minutes of said court, to wit:

133 *Order of Dismissal as to Mrs. Houston, C. Upson, Ex'r, & Dr. J. R. Smith.*

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.* } No. 53.

MONDAY, *March* 18, 1884.

On the 10th day of March, 1884, came B. B. Higgins and his wife, — Higgins, as landlords of Mrs. E. A. M. Houston, and make themselves parties defendant in Mrs. E. A. M. Houston's stead.

It is further ordered that this cause be dismissed as to Columbus Upson, as executor of the estate of — Vance, dec'd, Dr. J. R. Smith, and Mrs. E. A. M. Houston.

Wherefore it is adjudged by the court that the plaintiffs herein take nothing by this action as to Columbus Upson, executor, &c., Dr. J. R. Smith, and Mrs. E. A. M. Houston, and that they go hence and recover of said plaintiffs all their costs of suit in this behalf expended, for which execution may issue.

134 *Judgement.*

And afterwards, on Tuesday, the 13th day of March, A. D. 1884, the following entry appears upon the minutes of said court, to wit:

135 *Judgment.*

PILAR GARCIA DE SABARIEGO *et als.*
vs.
MARY A. MAVERICK *et als.* } No. 53.

THURSDAY, *March* 13, 1884.

This cause coming on to be heard came both parties, by counsel, and announced themselves ready for trial, and thereupon came a jury of good and lawful men of the western district of Texas, to wit, C. S. Broadbent and eleven others, duly elected, empannelled, and sworn, who, having heard the evidence, argument of counsel, and charge of the court, returned into open court the following verdict, to wit:

We, the jury, find for the defendants.

C. S. BROADBENT, *Foreman.*

Wherefore it is ordered, adjudged, and decreed by the court that the plaintiffs herein take nothing of the defendants herein by this action, and that the said defendants go hence and recover of said

plaintiffs all costs of suit in this behalf expended, for which execution may issue.

136 *Plaintiffs' 1st Bill of Exceptions.*

PILAR GARCIA DE SABARIEGO *et al. vs.* MARY A. MAVERICK *et al.*

And afterwards, to wit, on the 13th day of March, A. D. 1884, the plaintiffs, Sabariego and wife, filed their first bill of exceptions, which is as follows:

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Plaintiffs' first bill of exceptions. Filed March 13, 1884. W. C. Robards, clerk.

137 *Pl'ffs' 1st Bill of Exceptions. Filed 13th March*, 1884.

In Circuit Court of the United States for the Western District of Texas, at San Antonio. March Term, A. D. 1884.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.*
} No. 53.

Be it remembered that upon the trial of the above numbered and entitled cause the following proceedings were had:

The plaintiffs read in evidence the following (copy of translation *copy* of partition proceedings, marked "A 2.")

The plaintiffs next offered in evidence the following (copy of translation of confiscations proceedings and deed from board of commissioners to Garcia, "B 2," "C 2," and "D 2.")

The last document-, relating to the confiscation, sale, and conveyance of the property in controversy, were admitted in evidence, the court stating at the time that, in the opinion of the court, they did not show any decree or adjudication of confiscation sufficient to warrant the sale, and that unless plaintiffs could show some further proceeding upon which to base the action of the officers in

138 the premises the said proceedings constituted no legal confiscation and passed no title to the purchaser at said sale.

Counsel for the plaintiffs then stated to the court that they were unable to offer in evidence any further or other confiscation decree or proceedings than those already offered and read in evidence.

Counsel for plaintiffs then offered to read in evidence the depositions of witnesses as follows: Interrogatories and answers of following witnesses for plaintiffs, to wit: Juan N. Seguin, José Flores, Rodrigues, Gomez, Pilar and Manuel Sabariego, Manuel Cabreso, Ygenio Solazar, Gudalupe Guerrero, Deonicio Flores, Juand Huron, Estevan Huron, Maria Jesus Valdez, Ursula Gostarri de Arsienega, and all other interrogatories and answers on file taken by plaintiffs, also the interrogatories and answers on file (of Marequita Sosoya taken by defendants).

Counsel for plaintiffs also offered to prove that the facts stated in their original supplemental petition touching the ages, marriages,

relationship, heirship, and disabilities of the persons therein mentioned were true.

Counsel for plaintiffs further offered to prove that there were held under the same confiscation proceedings as those set out
139 under which plaintiffs claim other *other* property and titles in San Antonio, Texas, and that neither the government of Mexico or of the Republic or State of Texas or any person had sought to have the same annulled or set aside or question the validity of such titles.

Co-nsel for plaintiffs also offered to prove that the premises in their petition mentioned were the premises partitioned to Manuel Sosoya, as sueste No. 24, and were the same premises mentioned in said confiscation proceedings and conveyed to Garcia, through whom they claim.

Counsel for plaintiffs further offered to prove that defendants and each of them had actual notice of plaintiffs' claim to the premises in controversy before acquireing any title thereto.

But the court, upon the objection of defendants, refused to allow the depositions aforesaid or any part of them to be read, and refused to permit plaintiffs to make any of the proofs aforesaid upon the ground that the said confiscation proceedings were insufficient to pass title of any character, and that no title of any character was thereby passed to or vested in said Garcia, and that that this was fatal to plaintiffs' right of recovery, and that with all the said evidence read as well as that proposed to be offered showed no
140 title in plaintiffs which would warrant a verdict and judgment in their favor.

To the rulings of the court aforesaid the plaintiffs then and there in open court excepted and tenders this their bill of exceptions and asks now here in open court that the same be allowed and authenticated by the signature of the judge trying said cause, which is accordingly done in open court this 13th day of March, A. D. 1884, and made a part of the record.

E. B. TURNER, *Judge.*

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Plaintiffs' first bill of exceptions. Filed March 13th, 1884. W. C. Robards, clerk.

141 Translation copy of partition proceedings, marked "A 2," referred to in plaintiff's first bill of exceptions, to wit:

Endorsed: "A 2." Translation of the grant in partition of the lands in San Antonio, Valero, to the inhabitants of the Presidio de los Adaes. Filed March 11th, 1884. W. C. Robards, clerk.

142 "A 2."

Partition of the Grant of Land in San Antonio to the Inhabitants of the Presidio de los Adares. Filed 11th March, 1884.

In Circuit Court of the United States for the Western District of Texas, at San Antonio. March Term, A. D. 1884.

PILAR GARCIA DE SABARIEGO *et al. vs.* MARY A. MAVERICK *et als.*

Plaintiff's 1st bill of exceptions.

Be it remembered that upon the trial of the above entitled and numbered cause the following proceedings were had:

The plaintiff- read in evidence the following:

1st. I return to your lordship herewith the proceedings marked p. y No. 21, frs. 19, which you directed to me with your letter, No. 394, of the 29th October last, in which some inhabitants of San-Antonio de Bexar request that a partition of lands be made to them, because they were set-lers of the late "presidio" of the Adares, in order that, agreeable to the opinion of the auditor of war, which I have approved by superior decree of the 17th instant, you may order compliance thereto. May God keep your lordship many years.

Mexico, the 20th of November, 1792.

COUNT DE REVILLA GEGEDO.
SENOR RAMON DE CASTRO.

143 A copy.

Coahuila, the 27 December, 1792.

CASTRO (Paraph).

TOWN OF COAHUILA, *the 27th of December*, 1792.

These proceedings are referred to the governor of the province of Texas, Don Manuel Munoz, who, on sight of the opinion given by the auditor of war, approved by his excellency the viceroy, Count de Revilla Gigedo, will order a punctual and due compliance thereto.

CASTRO.

Act of 2d Obediance.

Seen by me, Don Manuel Munoz, lieutenant colonel of cavalry in the royal armies of his majesty, civil and military governor of this, the province of the Texas, and new Philippines, acting *ex officio*, with assisting witnesses, in default of any notary, there being none in the terms of law, and I did say that the order of the commanding general of the eastern provinces, Colonel Don Ramon de Castro, pursuant to the opinion of the auditor of war, and decrees in conformity thereto of his excellency the viceroy, Count de Revilla Gigedon, of the seventeenth of November, of the year last past, seventeen hundred and ninety-two, and the order of the same date, be complied with, observed, and executed, and to this effect let the superior resolutions be certified to the inhabitants of the abandoned "presidio" of the Adares, instructing the attorney and other individuals to present

a writ of such as there are, in order to proceed to the parti-
144 tion of lands, as is ordered by his excellency, appoint-
ing for the purpose a competant person to survey the shares assigned to every one of said inhabitants, the day when I shall transact this business to be appointed by them, in order that they may prepare and improve their lands, so as to sow them in proper time, for which they shall be called to assemble. By this decree I, the said governor, have thus determined and ordered in this, the town of San Fernando, and "presidio" of San Antonio de Bexar, on the eleventh day of January, of the current year seventeen hundred and ninety-three, and I did sign hereto, with my assisting witnesses as aforesaid, which I certify.

MAN'L MUNOZ.

Assisting, VICENTE DE LA CUESTA.
" JUAN JOSÉ CALDERON.

Notification to the Inhabitants of the Ada-es.

In the town of San Fernando and "presidio" of San Antonio de Bexar, on the fourteenth day of the month of January, of the current year seventeen hundred and ninety-three, I, Don Manuel Munoz, lieutenant colonel of cavalry in the royal army of his majesty, civil and military governor of this the province of the Texas, acting as *ex officio*, with assisting witnesses, in default of any notary, pursuant to the decree issued on the eleventh instant, and in presence of Don
José Servantes, attorney of the former inhabitants of the
145 abandoned "tresidio" of the Adaes, with twenty of them,
I did acquaint them with the orders issued by the commanding general, Colonel Don Ramon de Castro, titled count of Sierragorda, the decree of the auditor of war, the decree in conformity thereto of his excellency the viceroy, Count de Revella Gegedo, and having understood the same, that although the other inhabitant of the Adaes are absent from this capital and are expected to return by the twenty-fifth of next month, in this case they will present the list of all of them; and for the partition of the lands assigned to them from those that have belonged to the Indians of the mission of San Antonio Valero, they request that Don Pedro Guisar be appointed, whose fees they will pay jointly and *pro rata*, to survey and to deliver to every one the quantity of land for sowing six "almudes" of seeds assigned to every one of said inhabitants, without interference with the lands that are to be enjoyed by the Indians and the persons attached to said mission; and in order that the said partition of lands be not delayed they will proceed to an agreement with said Don Pedro Huisar, whose appearance they will procure, and they will notify to the governor, now present, the day when they shall be ready and in disposition to receive. This was their answer. And the said attorney and those who knew how

146 to write signed hereto with me, the said governor, and my assisting witnesses, all of which I do certify.

MUNOS.
PABLO FLORES.
BERNARDO ZERVANTES.
FRANC FARGOSA.
JOSE CALTETARIO ZEPEDA.
FELIS GUERRERO.
MATIAS DELERIO.
ANTO. ESTEBER.

Assisting, VICIENTE DE LA CUESTA,
" JUAN JOSE CALDERON.

Decree to Refer the Proceedings with Request and Recommendation to the Father President of the Missions.

In the aforesaid town, on the fifteenth day of the month of January, in the current year seventeen hundred and ninety-three, I, the above-named governor and commissioner, acting with the assisting witnesses in carrying on these proceedings, in default of any notary, did say that whereas the former inhabitants of the abandoned "presideo" of the Adeas have been notified, as appears in the proceedings carried on yesterday, the fourteenth of said January, and whereas it is proper that the father president, Brother José Francisco Lopez, be acquainted with the resolutions of the superior authority concerning the request of said inhabitants to be supplied with lands and water, and those of the mission of San Antonio Valero being assigned to them in conformity to the report of Count of Sierragorda, the opinion of the auditor of war and the decree in conformity thereto of his excellency the viceroy, Count of Revella Gegedo, and in order that compliance to the same be not deferred to the prejudice of said inhabitants
147 in working, clearing, and fencing their lands for sewing. I have resolved that the proceedings be referred to the said father, president of the mission, in order that, upon being acquainted with said orders, he be pleased to appoint for himself and in the name of the Indians of the mission of San Antonia de Valero a person to point out and designate all the arable lands susceptible of irrigation, although not open for it, so that by setting aside those that are destined for the Indians it be proceeded to the partition of those referred to in said orders between the aforesaid inhabitants of the Adaes and those who have for many years been assembled in said mission, and to the effect I ask and recommend, in the name of his majesty, and on my own part do request him to be pleased to state hereinafter his pleasure, in order, upon taking it into consideration, to take proper action.

By this decree I, the above-named governor and commissioner, *I* have thus disposed and did sign hereto, with my assisting witnesses, with whom I act as aforesaid.

MAN'L MUNOS.

Assisting, VICIENTE DE LA CUESTA.
" ALEXO DE LA GARZA.

The foregoing decree being seen by me, Brother Josef Fran'co Lopez, president of the mission of this province of the Texas,
148 I say that there is nothing to prevent the partition and adjudication of the lands to be given to the above-mentioned inhabitants of the Adaes and persons attached to this mission of San Antonio Valero. For the purpose the overseer of this mission will designate the arable lands that are susceptible of irrigation, in order that your lordship may act as may be convenient.

Mission of San Antonio de Valero, the sixteenth of January, seventeen hundred and ninety-three.

FR. J'H FRA'CO LOPEZ.

In the town of San Fernando and Presidio of San Antonio de Bexar, on the seventeenth day of the month of January, in the current year seventeen hundred and ninety-three, I, Don Manuel Munoz, lieutenant colonel of cavalry in the royal armies of his majesty, governor of this province of the Texas, and commissioned by the commanding general of the eastern provinces, Colonel Don Ramon de Castro, acting *ex officio*, with assisting witnesses, in default of any notary, there being none in the terms of the law, having seen the answer returned by the reverend father president of the mission, Brother Jose Fran'co Lopez, and, in order to carry into effect the provision of the decree issued on the eleventh day of the current month of January, did say that, although the Indians of the mission of San Antonio Valero have received, in presence of their ministering father, notification of the superior de-
149 cisions of the auditor of war, his excellency the viceroy and the commanding general, they should be called to appear in this governor's office, and, being present with their said ministering father, asked, by request and recommendation, to attend the governor's Esmerejildo de la Puente, and the Indians, Juan de Dios Cortes, Urbano Yowxosa, Ansilmo Cuevas, and Mater Godines, *and* being present, they said that they were delegated by the other Indians of their village to inform the governor, now present, that they have delegated, as they did delegate, their actual governor, Esmerejildo Puente, to sign and to attend in the name of all the sons of the village to the hearing and signing of the notifications and other proceedings conclusive of a compliance with the orders notified to them before their ministering father. Whereupon I, the said governor, did order that the order of Count of Sierragorda, which appears in these proceedings, the opinion of the auditor of war, the decree in comformity thereto of his excellency, the viceroy, Count de Revilla Gigedo, and the commanding general, with the decree issued by me, be read to them in plain and intelligible words, and upon being well informed that the lands of the mission are about to be divided among the former inhabitants of the abandoned "Presidio" of the Adaes, the persons attached to or serving in said mission, and to every one of the Indians
150 who have been in it at the rate of four "almudes" of seeds, separating a convenient portion to be cultivated and sown with suitable seeds to pay what the missions may give them when the occasion shall arise to order its secularization, and wishing that

said Indians should enjoy the benefit and advantage of the cultivated lands according to the knowledge they may have of them, they were offered to select in which of the two "labors" they desire the lands assigned to them by the superior authority to be par-tioned to them, and the said governor, as well as those who are present, said that they asked them to be partitioned in the "labor" called the "lower labor," where the sufficient portion to be sown over to pay from its product such debts as the missions may have at the time of its secularization, should also be, after which it should be cultivated in common for their own benefit and that of those from the Ades. This was their answer, and said Ermenejildo and their ministering father, Brother José Francisco Lopez, did sign hereto, and I, the said governor, did sign with the assisting witnesses with whom I act as aforesaid, which I certify.

Munos: FR. JH. FRAN. LOPEZ.

For myself, and as attorney of the other Indians of the Mission of San Antonio Batero, I did sign.

HERMONIJILDO PUENTE.

Assisting, VICIENTE DE LA CUESTA.

Assisting, ANDRES BENTO. CAURBIERE.

151 *List of the Inhabitants who Came from the Adaes.*

Bernardo Zervantes.
Seprian Losolla.
Miguel Losoya.
Manuel Losoya.
Matias Del Rio.
Joseph Maria Rodrigues.
Gaspar Ydalgo.
Juan de la Zerdie.
Fernando de la Zerva.
Juan Martinez.
Manuel Martinez.
Lorenzo Ramos.
Joseph Louis Hernandez
Antonio Brito.
Louis de la Gruz.
Diego Herera.
Teodoro de la Zerva.
Francisco de la Serda.
Manuel de Alcaden.
Louis Rimerez.
Joseph Munsola.
Francisco Guerrero.
Felis Guerero.
Rafel San Miguel.
Louis de Castro.
Gubiel Zepeda.
Manuel Franco.
Joseph de Alada.
Mariano Salenas.

Joseph Zepeda.
Joseph Martin Benites.
152 Joseph Remerez.
Manuel de la Gruz.
Juan Joseph Cardena.
Joseph Antonio Hiber.
Manuel de los Santos.
Pablo Flores.
Juaquin Musquiez.
Manuel Barela.
Joseph Flores.
Ambrosio Zepeda.

Town of San Fernando and Royal "Presidio" of San Antonio de Bexar, January 17th, 1793.

BERNARDO ZERVANTES.
PABLO FLORES.
ANTONIO CHEVIR.
FRANCISCO FRAGAS.
JOSÉ COLLETARA DE ZAPEDA.
MATIAS DEL RIO
FELIS GUERERO.

SAN ANTONIO DE BEXAR, 17*th January*, 1893.

Let this be attached to the proceedings in order to proceed thereupon to the partition of the lands referred to in said proceedings, for which purpose they are notified to meet together in order that every one may receive the land to which he is entitled, and in order that no injury or ill-feeling should arise the partition shall be proceeded to by drawing lots, and *and* consequently every one must be satisfied with his lot, either of improved land or timbered land, yet susceptible of irrigation and with ditches, all of which is
153 understood by the attorney, Don Bernardo Zervantes, who signed hereto with me, the said governor, and assisting witnesses.

MUNOS.
BERNARDO ZERVANTES.

Assisting, VICIENTE DE LA CUESTA.
Assisting, ANDRES BENTO. CAUVIERE.

A roll, exhibiting the sons of this mission of San Antonio de Valero, established by the order of the governor of this province of the seventeenth of January, seventeen hundred and ninety-three, by me, the governor of said mission, jointly with our ministering father, Brother Josef Fran'co Lopez.

HERMENEJILDO PUENTE, *Gov'or.*
URBANO HENOJOSA,
Alcalde and Fiscal.

Juan de Dios Cortez.
Manuel de Henojosa.
Anselmo Cuebas.
Joseph Miguel Manzano.
Domingo Orsud.

Josef Joaquin Cuebas.
Fran'co Parilla,
Juan Josef Cuebas.
Mateo Godines.
Bernardino del Rio.
Fran'co Robles.
Josef Augustin Puente.
Fr. J'f Fran'co Lopez.

HERMENEJILDO PUENTE.

In the town of San Fernando and presidio of San Antonio de Bexar, on the eighteenth day of the month of January, this
154 current year seventeen hundred and ninety-three, before me, Don Manuel Munos, lieutenant colonel of cavalry in the royal armies of his majesty, governor, by appointment, of this province of Texas, and commissioned by the commanding general of the eastern provinces, Colonel Don Ramon de Castro, to carry on their proceedings, which I authenticate, with assisting witnesses, in default of any notary, appeared the attorney and inhabitants of the abandoned "presidio" of the Adeas, the governor, Don Esmejeldo Puente, and other Indians of the mission of San Antonio de Valero, and they constituted the surveyor, Don Pedro Guizar, to partition to them the lands assigned to them by his excellency the viceroy, Count de Revella Gegego in, consequence of the sovereign royal order of the tenth of September of the past year, seventeen hundred and ninety-two, containing the royal regulation on "presidios," because he is competent and satisfactory to them. By virtue whereof, and to avoid any collusion or evil practice, I proceeded to receive his oath in presence of the above-named persons, those who knew how to write signing hereto; and he took it by God our Lord and the sign of the cross, which he make with his right hand, upon which he promised to God and the king to proceed to the partition of the lands assigned both to the inhabitants of the Adaes and to the Indians of the village of San Antonio, and the persons attached thereto,
155 faithfully and lawfully, according to his knowledge and understanding, to which effect lots shall be drawn, as they have asked, whereby the purity of the proceedings shall be evidenced, both on the improved lands and on the timbered ones which are irrigable; all of which is set in writing for authenticity whenever it may be proper; and they signed with me, the said governor, and assisting witnesses, which I certify.

MANUEL MUNOS.
PEDRO HUIZAR.
BERNARDO ZERVENTES.
ERMENEJILDO PUENTE.
FRA'CO FRAJ'S.
PABLO FLORES.
JOSE CALLDANO ZOPEDA.
ANTONIO CHIVER.
MATIAS DEL RIO.
FELIS GUERRERO.

Assisting, VICIENTE DE LA CUESTA.
Assisting, ANDRES BENTO CAUVIERE.

With regard to the secularization of the mission of San Antonio Valero, I am informed that an order on the subject will soon be issued; meanwhile let the ministering father, Brother Jose Francisco Lopez, be told to instruct the Indians to fence and prepare their lands for sowing on those of the lower "labor," as they asked and is expressed in the proceedings contained on the reverse of the thirteenth leaf and the face of the fourteenth, and that when the time shall come the partition will be made by the surveyor applied for by them, Don Pedro Guisa, and the other means referred to in said order will be supplied; and for the present let the partition among the
156 inhabitants of the Adaes be perfected, and the drawing of lots for said lands be attended to, as they did ask in the proceedings contained in the sixteenth leaf and reverse up to the eighteenth, and for this purpose let the person performing the duty of alcalde, of the first vote, Don Juan José de la Santa, and the procurador general, Don Joaquin Flores, proceed to attend to the drawing, and to write hereinafter a list of the persons to whom the shares (suertes) of land have been partitioned, at the rate of six "almudes" of seeds for each one, for which Don Pedro Guisar acts as surveyor, and upon having executed the same they will make hereinafter a written statement, affirmed by Guizar, certifying all the facts aforesaid.

By this decree I, the above-named governor and commissioner, acting with assisting witnesses, have thus determined in this town of San Fernando de Bexar, on the twenty-third day of February, in the current year seventeen hundred and ninety-three.

MANUEL MUNOS.

Assisting, VICIENTE DE LA CUESTA.
Assisting, ANDRES BENNO. CAUVIERE.

In the town of San Fernando and presidio of San Antonio de Bexar, on the twenty-fourth day of the month of February, seventeen hundred and ninety-three, I, Don José de la Santa,
157 senior regidor of the ayuntâmiento of this said town, and ordinary alcalde of the first vote, by virtue of my office and in the absence of the titulary, acting *ex officio*, with assisting witnesses, in default of any notary, and on the present ordinary paper, there being none of any stamps, in compliance with the foregoing decree of the governor of this province, did say that I will proceed, jointly with the procurador general of this town and the surveyor appointed in these proceedings, to attend the partition and drawing of said lands which are to be delivered to the inhabitants of the late "presidio" of the Adaes, at the rate of six "almudes" of seeds for each one, by said surveyor, Don Pedro Guisar, a statement of which shall be made, with expression that it has been executed in the written proceedings to be found at the conclusion, and consequently a list shall be established of all persons concerned.

By this decree I have thus determined, and did sign hereto with

my assisting witnesses, with whom I act as aforesaid, which I do certify.

JUAN JOSEPH DE LA SANTA.

Assisting, LOUIS M'N'L FLORES.
Assisting, JOSÉ ANTONIO ROMERO.

In the aforesaid town and "presidio" on the twenty-fifth day of the month of February, seventeen hundred and ninety-three,
158 I, the above-named judge, by virtue of the foregoing act of obedi*a*nce, proceeded to the locality or site of the upper "labor" of the mission of San Antonio Valero, jointly with the procurador general of this town, Don Joachin Flores y Zendeja, and the person acting as surveyor, Don Pedro Huisa, and being within the premises, the drawing and partition were proceeded to by said Hueisa of said lands, giving to every one of the former inhabitants of the demolished "presidio" of the Adeas one share (suerte) of land to sow sufficiently and amply one-half fanega of maize, in my and the procurador's presence; and consequently I, the above-named judge, by verbal order, which I received from the governor of this province, Lieutenant Colonel Don Manuel Muños, did put them, one by one, in possession of the share (suerte) of land pertaining to them, quietly and peaceably, in the name of his majesty (whom God pre-rve), performing and observing all the ceremonial formalities and requisites that are necessary and required by law, causing them at the same time to pull weeds, to throw stones, as they did, on the four cardinal points, in evidence of being really in possession and having acquired dominion, ownership, and possession as the law requires, which is hereby given them, in order that they may hold and enjoy the same freely, unto them, their heirs and successors, with all the uses, customs, and servitudes thereof, notifying them, as they are
159 hereby notified, to settle and *and* cultivate the same within the terms prescribed by law, and not to sell or alienate it without the necessary permission and expressed authorization of the governor of the province, and doing the same, in the same terms, and with the same notifications for the persons attached to the missions and other residents of this province; and whereas the governor has ordered that a list of the ones and the others be included in these proceedings, stating their names, and stating those who are and those who are not from the Adeas, I do so in the following manner:

List of the Persons From the Adeas (*Adaeseños*).

No. 1 to Manuel Martinez.
No. 2 to José Maria Rodrigues.
No. 3 to Manuel de los Santos.
No. 4 to Joachin Musquez.
No. 5 to Mariano Salinas.
No. 6 to Juan Martinez.
No. 7 to Manuel Franco.
No. 8 to Bernardo Zervantes.

No. 9 to Francisco Carmona.
No. 10 to Louis de Castro.
No. 11 to Nepomunceno San Miguel.
No. 12 to Manuel de Alculd.
No. 13 to Felis Guerrero.
No. 14 to Fran'co Anto. Guerrero.
No. 15 to Louis Ramires.
No. 16 to Domingo Carmona.
No. 17 to Juan de la Zerda.
No. 18 to Jose Ramires.
160 No. 19 to Mateas Del Rio.
No. 20 to José Anto. Acosta.
No. 21 to Franco Zerda.
No. 22 to Fernando Zerda.
No. 23 to Gaspar Ydalgo.
No. 24 to Miguel Losoya.
No. 25 to Sypreano Losoya.
No. 26 to José de Zepeda.
No. 27 to Manuel de la Cruz.
No. 28 to Manuel Losoya.
No. 29 to Louis Hernandez.
No. 30 to José Serapin Mansolo.
No. 31 to José Alcala.
No. 32 to Ambracio Zepeda.
No. 33 to Diego de Herrara.
No. 34 to Tomas Maldonadd.
No. 35 to Teodora de la Zerda.
No. 36 to Pablo Flores.
No. 37 to Anto. Chiver.
No. 38 to Lorenzo Ramos.
No. 39 to Savier de Zepeda.
No. 40 to Louis Cruz.

List of persons attached to the Adaeseños who did also receive lands as aforesaid:

No. 41 to Manuel Anto. Parriaga.
No. 42 to Carlos Casillas.
No. 43 to Gregoria de Herrera.
No. 44 to José Anto. Ramos Midsane.
No. 45 to José Mansola.

Next the persons who were attached to the mission who
161 did also receive lands on the main ditch (Acequia Madre) on the east side:

No. 1 to Maria de Estrada.
No. 2 to Miguel de Gortari.
No. 3 to George de los Santes.
No. 4 to José Anto. Martinez.
No. 5 to José Ygnacio Galvan.
No. 6 to Firmin Raimeres.

No. 7 to Juan Gamboa.
No. 8 to Juan de los Rios.
No. 9 to Matiana Galindo.

Next the inhabitants of this province attached *attached* to those above:

No. 1. José Flores.
No. 2, Roberto Nunoz.

And whereas these proceedings are now concluded, they will be taken by me to the superior jurisdiction of the governor, from whom my commission emanated, for such effect as may be advisable.

Thus I have provided and ordered, and did sign hereto, I, Don Juan José de la Santa, senior rigidor of the ayuntamiento of this above-named town, and ordinary alcalde of the first vote, by virtue of my office in the absence of the titulary, acting *ex officio* with assisting witnessess, in default of any notary, there being none in the terms of law, and on the present common paper, having no stamped paper; the procurador general, Don Joachin Flores, and the
162 surveyor, Don Pedro Huisar, signing likewise, the first as assisting and the second as actor, in this aforesaid town on the above written day, month, and year, which I certify.

JUAN J'PH DE LA SANTA.
PEDRO HUISA.
JOACHIN FLORES.

Assisting, LOUIS FLORES.
Assisting, JOSÉ ANTO. ROMERO.

In the town of San Fernando and Presidio of San Antonio de Bexar, on the twentieth of the month of March, in the current year seventeen hundred and ninety-three, I, Don Manuel Munos, lieutenant colonel of cavalry in the royal armies of his majesty, governor of this province of the Texas, and commissioned for carrying on these proceedings, acting *ex officio* with assisting witnesses, in default of any notary, there being none in the terms of law, having examined the proceedings carried on by Don Juan José de la Santa and Don Joaquin Flores, the former senior regidor of the ayuntamiento of this town and ordinary alcalde in the absence of the titulary, and the latter, procurador general, upon the drawing of the lands partitioned between the former residents of the Adaes, which took place before my departure for the coast, I have determined to approve it because the attorney of said residents, Don Bernardo Zervantes, states in writing that his constituents are satisfied and
163 consider themselves in possession of their lands, and consequently these proceedings are declared to be closed, and will be placed in the hands of the commanding general, who, upon seeing them, will please inform this government of his superior pleasure.

By this decree, signed by me, the said governor, and the attorney, Don Bernardo Zervantes, and assisting witnesses, I have thus deter-

mined, and on this common paper, there being none of any stamp, to which I certify and bear testimony.

MANUEL MUNOS.
BERNARDO ZERVANTES.

Assisting, JOSÉ DE JONIS MANSOLO.
Assisting, VICIENTE DE LA CUESTA.

Endorsement.

Whereas the partition of lands to the Indians who belonged to the secularized mission of San Antonio Valero was made separately in the proceedings of inventory of property received from said mission, these presents are returned to the comm-ding general, Brigadier Don Pedro de Nava, as required in his order of the first of June last past, together with a letter of answer bearing this date.

San Antonio de Bexar, this 27th of July, 1793.

MUÑOS.

Agreeably to the opinion of the assessor I have ordered the proceedings of the partition of lands made at the mission of San Antonio Valero between the former inhabitants of the late Presidio of the Adaes to be archived, and consequently I return to you the
164 original proceedings referring to that business which you addressed to me with letter No. 43 of the 27th of July last, to be deposited by you in the archives of the government in your charge, in order that the parties interested may have a more immediate access to the same, and that the "testimonios" that they may apply for and require may be delivered to them, to be used by them as title of possession; and I have ordered that a copy of said proceedings be archived for proper authentication.

May God preserve you many years.

Chihuargua, the 28th of October, 1793.

PEDRO DE NAVA.

To the governor of the province of Texas.

In the town of San Fernando and Presidio of San Antonio de Bexar, on the seventh day of the month of December, seventeen hundred and ninety-three, I, Don Manuel Muños, lieutenant colonel of cavalry in the royal armies, civil and military governor for his majesty of the province of the Texas and subdelegate in the two departments of the treasury and war, having received this superior order of the commanding general of the eastern provinces, Brigadier General Don Pedro de Nava, did say that the proceedings to which reference is made be filed together and deposited in the archives of this government, in order to give the "testimonios" that may
165 be applied for on the part of the Adueseños and other inhabitants concearned in these proceedings. Thus I have determined and did sign hereto as aforesaid.

MANUEL MUÑOS.

Assisting, JOSE GENACIO SILVA.
Assisting, VICIENTE DE LA CUESTA.

On the twelfth of March, 1795, a testimonio of these proceedings was transcribed at the request of Diego de Herrera and delivered to him.

On the 16th of said month and year it was transcribed for Bernardo Zervantes and delivered to him.

On the 22d of April of said year it was transcribed for Matias Del Rio and delivered to him.

On the same day, month, and year it was transcribed for José Antonio del Toro, *alias* Chiver, and delivered to him.

On the 24th do. it was transcribed for Lorenzo Ramos and delivered to him.

On the eighth of May of the same year, 1795, it was transcribed for Maria de Estrada and delivered to him.

On the ninth of said month and year it was transcribed for Miguel Losoya and delivered to him.

On the 22d of said month and year it was transcribed for Juan Martinez and delivered to him.

166 I refer to you, on 11 written leaves, the proceedings instituted upon the partition of lands between the former inhabitants of the Presidio of the Adaes, the same which I directed to general headquarters on the 27th of July, 1793, with a letter of the same date, No. 43.

This document was returned by said superior authority to this government in order that the parties interested might have more ready access to them as title; and for this purpose two of them have appeared with the respective applications; and being broken in health, with important public business, I have determined to vest you with the necessary power, besides those with which you are vested by virtue of your honorable office of "promotor fiscal," to cause the "testimonios" applied for by the persons whose petitions I enclose herewith, and those for the parties who may hereafter make applications, which I will forward to you to be transcribed; whereby the order of the commanding general of the 2d of October, 1793, attached to these proceedings, shall receive due compliance.

You will acknowledge the receipt of this, stating that you have acquainted yourself therewith, for due compliance with the same. May God preserve you many years.

San Antonio de Bexar, the 10th of May, 1795.

MANUEL MUÑOS.

167 Certificate and seal of the clerk of the county court*y*, omitted here, is ——.

STATE OF TEXAS, *County of Travis:*

I, X. B. de Bray, Spanesh translator of the general land office of the State of Texas, certify the foregoing, marked A 2, is a correct translation of the Spanish document, marked A (1), and identified with my signature.

X. B. DE BRAY.

Sworn to and subscribed before me this 21st day of February, 1884.

[SEAL.] FRANK BROWN,
Clerk County Court, Travis County, Texas.

Endorsed: A (2). Translation of the grant in partition of the lands in San Antonio, Valero, to the inhabitants of the Presidio de los Adaes. Filed March 11th, 1884. W. C. Robards, cl'k.

168 Translation of list of property seized in 1817, and marked "B 2," and referred to in plaintiffs' first bill of exceptions, to wit:

Endorsed: "B 2." No. 53. Translation of property seized in 1817. Sabariego *et al. vs.* Mary A. Maverick *et al.* Filed March 13th, 1884. W. C. Robards, clerk.

169 "B 2."

Translation of List of Property Seised [*in*] 1817. *Filed March* 13, 1884.

1st head sheet. Year 1817. Intendancy of San Luis Potosi.

The governor of the province of Texas returns statements of property confiscated from the rebels in Bexar, and of the condition thereof, and asks whether some of it may be sold.

2d head sheet. Year 1817. Intendancy of San Luis Potosi.

The governor of the State of Texas returns statements of property confiscated from the rebels in Bexar, and of the condition thereof, and asks whether some of it may be sold.

170 Statement of property confiscated from the rebels of this city by the order of the commanding general, Don Joaquin de Arredondo, as shown by the statement and inventory made by Captain Don Fran'co del Prado y Arse on the 27th of October, 1814, which I copy and to which I refer myself, viz:

	Valuation.
Fran'co Arocha, one stone house, valued at	1,838.0.0
Viciente Travieso, do. do.	5,545.0.0
Manuel Delgado, do. do.	1,230.4
Juan Berramendi, do. do. — was returned by order of the general	2,746.4
Was exchanged by superior order. Antonio Baca, the house which belonged to Ens'gn Jose Granadas, valued	3,000.0.0
Jose Manuel Delgado, a stone room—has been sold	300.0.0
Jose Delgado, do.	320
Clemente Delgado, a stone house	975
F'co Rodriguez, a stone room—has been sold	250
Jauan Manuel Enriguez, "	115.4
Manuel Peres, do.	130
Manuel Peres, four jocals (thatched cabins) adjoining said room	122

	Megine del Rio, a stone room	109.4
	Erasum Seguin, a stone house—returned by the order of the intendant	2,715
	Tomas Arocha, do. do.	380.4
	The house belonging to the Arochas by inheritance	4,737
	Lorenzo Ramos, one jocal	30
	Jose Anto. Villegas, do.	30
	Domingo Diego Acosta, do.	30
	Claudio Ramirez—what is built on a jocal	36
	F'co Borrego, one jocal	50
171	Antonio Baca, two solares (lots)	32
	Do. 35 varas of land more	43
	Do. 69 more varas of land	127.4
	Antonio Baca, 46 more varas of land	84
	Do. 84 varas front and 54 varas in depth, with two jocals	136
	Jose Antonio Curbelo, one jocal and kitchen	75.4
	The Frenchman Gaulet, one frame house	197
	Jose Sanchez, one old jocal	20
	Jose Leal, one solar, 11 vs. front and 116 in depth	30
	Gertrudes Mantez, one old jocal	38
	Manuel Delgado, one solar, 40 vs. front and 50 in depth	80
	Do. one stone house	300
	Antonio Castro, one jocal	40
	Luis Gallardo, one do.	18
	F'co Carmona, one "chamicurio" (cabin covered with hides)	66.2
	Joaquin del Toro, one old jocal without depth	12
	Gabriel del O., one solar	80
	F'co Mantes, one old jocal with solar	46
	F'co Travieso, two solars	82
	Antonio Carmona, one old jocal	50
	Vicente Tarin, one jocal, destroyed	19
	Nupomuceno San Meguel, on- solar at the Alamo	25
	Antonio Martinez, one jocal	110
	Do. one "suerte" of land, with one-half "dula" stock with watering privilege	100
	Do. one solar at the Alamo	121
	Cayetano Dominguez, one "suerta" of land, with one-half "dula"	100
	Reechard Frances, one frame house	229
	Bernado Benites, one solar	40
	Luciano Menchuca, one jocal	73.4
172	Pedro de Acosta, one jocal with solar	112
	F'co Arocha, one solar and one suerta of land	240
	Manuel Delgado, four suertes of land	316.5.4
	Antonio Boca, two suertes of land and two and a half of water	500
	Do. one female slave	165

Jose Delgado, five hours of water, with the respective land	40
Lorenzo Ramos, one-half dula of water	100
Domingo Diego de Acosta, do.	100
F'co Borrego, do.	100
F'co Carmona, do.	100
Miguel Losoya. do.	100
Joaquin Delgado—say seal—two dulas of water and 4 suertes of land	316.5.4
Juan Martinez, one-half dula of water	100
The Frenchman Luboubi, four female slaves	340
Pedro Langeville, six hours of water	50
Juan Cortes, one-half dula of water	100
Antonio Martinez, do.	100
Cayetano Dominguez, do.	100
Jose Cuebas —	100
Jose Flores Baldes, one-half dula of water and a parcel of arable land	225
Marcelo Servantes, 4 hours of water	17
Juan Diago Viles, one loom	25
By 118 head of small cattle	85
By 4,567 do. of large cattle	27,242
By 916 fanegas of corn gathered by Captain Don Jesus Cantu, *a* $5.00	4,580
Sum total	626.42.6.8

173 Deductions made from this amount by sales and donations, as appears from statements.

By statement No. 5 deduction is made of 502 dollars, value of three parts of a room sold to Don José Rosi; one frame house to Don Mariano Lopez, and one jocal to Don Antonio Vilano	502
By No. 6, 1,133 dollars, for sale of arable lands	1,133.2.8
By another, 205 dollars, for one female slave sold and another dead	205
By No. 9, 975 dollars, value of a house donated	975
By No. 10 deduction is made of 3,876 dollars, for 646 beeves consumed by the army	3,876
By No. 11, 4,580 [dollars], value of 166 fanegas of corn for compensation and consumption by the troops	4,580
By 5,545 dollars, value of the house of the perfidious Vicente Travieso, acquired for a purpose of piety, according to the intention of the commanding general that it should be delivered to Don Mariano Lopez for the account of the vestry	5,545

By 166 dollars 2 reals, for Francisco Carmona's chamacuero, given to José Pinedu by decreed order of the commanding general, dated the 14th
174 of Feb'y, of this year 162.2

Balance 45,560.2

Bixar, the 27th of October, 1814.

F'CO DEL PRADO Y ARCE.
JUAN FRAN'CO DE COLLANTES.

General inventory and copy of property belonging to the king and confiscated from the insurgents of this province, which I received from my predecessor, Lieutenant Don Juan Antonio Padilla, and is now in existance, viz:

Sold to Manuel Itorri Castillo for $2,025: The house of Don F'co Arocha, with the rooms stated in the inventory. The do. of Vicente Travieso, with hall, parlor, two closets, store and rear room. The house of Manuel Delgodo, with hall, parlor, closet, room, and one "chamacuero."

That of Antonio Boca, which belonged to Ensign Grenados, with hall, two parlors, closet, two rooms.

That of José Manuel Delgodo, with one room very deteriorated.

That of F'co Rodriguez, with a stone room, half fallen, threatening ruin.

That of Manuel Enriguez, one stone room, uninhabited.

Manuel Peres, one old stone room, four jocals, deteriorated.

Meguie del Rio, one room without enclosure.

175 The house of Erasmo Seguin, with parlor and six rooms, including the kitchen.

That which belongs to the Arochas, stone built, with hall, parlor, closet, and one room.

Tomas Arocha's one-half house, with parlor and one room.

By 22½ varas of land and 38 in depth, on which Lorenzo Ramas had built two jocales.

By 12 varas in front and 30 vs. in depth, on which was José Villega's jocal.

Francisco Borrego's jocal, with 132 vs. in front and depth down to the river.

Don Antonio Boca, two solares, forming one parcel of land, without any building, 32 vs. front and depth down to the river.

Do., 35 vs. front and depth down to the river, on which there were two ruined jocales.

Do., 54 vs. in front, adjoining the river and bridge, with depth down to the same river.

Do., 35 vs. on the south, with depth down to the river.

Do., 46 vs. in front, with depth down to the river, on which there were three ruined jocales.

Do., 84 vs. in front and 54 in depth, on which there were
176 two jocales—one jocal, with its kitchen, belonging to Ant'o Curbalo, with 43 vs. in front and in depth down to the river.

José Sanches, 13 vs. of land on which there was an old jocal.
José Leal, one solar with 17 vs. in front and 46 vs. in depth.
Gertrudez Mautes, a parcel of land on which there was a parcel of *land* (?).
Manuel Delgados, one solar with 40 vs. in front and 50 in depth.
do. one stone house with 8 vs. front and 50 in depth.
Antonio Castro, one parcel of land on Flores street, with 12 vs. in front and 54 in depth.
Gabriel de la O., one solar 80 vs. square.
F'sco Martinez, one solar 46 varas in front and 60 in depth.
Antonio Carmona, one solar 25 vs. front and 30 in depth.
Vicente Tarin, 5½ vs. of land in front and 25 in depth.
Antonio Martinez, one solar 109 vs. in front and 118 in depth.
The alien Rechard, one solar, fronting on the barracks, with 200 vs. in front and in depth down to the river.
Don Bernardo Benitas, one solar.
Luciano Menchaca's one jocal 35 vs. in front and 50 in depth.
177 Pecho Acosta's one old jocal 42 vs. in front and in depth to the river.
Francisco Arocha's one solar at the Apache crossing.
do. one day of water with its respective land.
Antonio Baca's one suerte of land.
José Delgado's, 5 hours of water.
Lorenzo Ramos one-half "dula" of water.
Domingo Diego's do.
F'co Borrego's do.
F'co Carmona's do.
Miguel Losoya's do.
Manuel Martinez' do.
Pedro Pedro Laugueville, six hours of water.
Juan Cortes, one-half "dula" of water.
Cayetano Dominguez, do.
José Flores, do.
Marcelo Cervantes, 4 hours of water.
Juan Diago, one old loom.

Remarks.

All the other confiscated property appearing in the statement made by Don Francisco del Prado as above, in the copy of the statement of existing property which I have received from my predecessor, Lieutenant Don Antonio Padilla, now wanting, shall be accounted for by my predecessor in office, since I have had no knowledge of it;
178 but I will be accountable for the property which I received from said Padilla, as appears in this last statement.

Bexar, 19th of September, 1817.

JUAN FRAN'CO DE COLLANTES.

Statement of the king's houses which have been rented and disposition made of the others. Appropriation of the proceeds of rents from the 30th of December to the end of this month.

Fran'co Arocho's house has been used as quarters of the company of Texas militia by superior orders.

Vicente Travieso's house is used as quarters by the auxiliary detachments from Mondova.

Manuel Delgado's house has been rented from the 30th of December, 1816, to the 30th of June, 1817, at the rate of five dollars per month, and subsequently it has been appropriated for storing seeds for the paymaster's department. 30.

Jose Manuel Delgado's house has remained untenanted, owing to its bad condition, being dilapidated, and subsequently the stones of it were used by the Governor to rebuild the lookout.

F'co Rodriguez' house in the same condition as the above.

179 Manuel Enriguez' house uninhabited, owing to its ruinous condition.

Man'l Perez' house was rented from the 30th of December to the end of this month at one dollar per month.

Meguil del Rio's house uninhabited.

Erosmo Seguin's house appropriated for a public school by the order of the commanding general.

The Arocha's house rented at 4 dollars from the 30th of December to the end of this month. 36.75.

Tomas Arocha's house not rented—undergoing repairs.

Veramendi's house returned to that person.

Ensign Granodo's house exchanged for that of the traitor Baca; annexed to the government building.

Manuel Delgado's house not rented, in order that it may be kept in good condition.

Remarks.

The chamacueras and jocals, now standing, being built of wood, are unserviceable, and consequently nobody wishes to rent them, and some of them have been occupied by the families of soldies without rent to prevent their falling in ruin.

Appropriations of the Proceeds of Houses.

180 The lights for the masses from Dec. 1st to the end of June, at the rate of 9 dollars 5 reals and 6 grains per month ---------- 67.66

For lights for the guards on the plaza from the end of June to the end of this month, at the rate of 6 dollars 7 reals per month ---------- 20.5

88.36

The house guard owes ---------- 13.36

JUAN FRANC'O DE COLLANTES.

[On margin:] On the 20th inst. receipt was acknowledged, stating that he shall be advised of the result.

There are in this city several houses sequestered from the insurgents who took part in the revolution of this province, which took place in the past year, 1811, but all of them are so deteriorated that they are becoming wholly unservic-able, having never been repaired, owing to want of funds for that purpose, a few of them having been inhabited by persons connected with the army, who, considering their well-known straightened circumstances, had means to pay rent only. The result is that, although at that time they were appraised by commissioners appointed for that purpose, according to their inventory existing in these archives, in amounts which were then adequate, they cannot now be worth one-half of what they
181 were then, and some of them may not be worth one-third; and, considering that their ruinous condition increases from day to day, I hope that your lordship will please tell me whether some of them may be sold in case that purchasers be found, and whether, owing to the cause above specified, some rebate may be made on the appraised value, considering that at this moment a buyer comes before me of a house appraised at three hundred and eighty dollars, but, inasmuch as the price does not suit him, he asks for some rebate on it, said house *been* wholly unservic-able. In these terms, and considering that this business is under the authority of the intendancy, I shall act according to the instructions which your lordship may give on the subject. God keep you many years.

Bexar, September 14, 1817.

ANTONIO MARTINEZ.

To the intendant of San Luis Potosi.

One "cuartillo."

182 Fourth stamp: One "cuartello." For the years eighteen hundred and fourteen and fifteen.

San Luis Potosi, the 20th of October, 1817.

Let the official communication of the governor of the province of Texas, and inventory and statements thereto attached, upon houses sequestered from the rebels at Bexar, and asking whether
[SEAL.] some of them may be sold, be filed, and let the whole be referred to the "asesor" for his opinion upon such instructions as may be proper. The intendant "corregidor" of this province, Don Manuel Jacinto de Acevédo, has thus decreed and ordered and did sign hereto with assisting witnesses, in default of a notary, which I certify.

[SEAL. 1817.] MANUEL DE ACEVEDO.

Assisting, JOSÉ MARIA BURAL.
Assisting, MAN. JOSE DOMINGO.

One cuartillo.

[On margin:] Erasures are not valid.

To the intendant.

Art. 82 of the royal ordinance of December 4, 1786, gives powers, in case of confiscation by sentance of any property within
183 the territory of this province, and makes it the special duty of your lordship to proceed to the alienation and collection of the proceeds and to take cognizance of all litigation and claims subsequently arising; and on the same subject a superior order was afterwards issued referring to property confiscated from the rebels. In these terms and in the case to which the Governor of the province of Texas makes reference at the beginning of his report of the 19th of September of this year, that the confiscation of the property mentioned in it was effected by the order of the commanding general of the eastern provinces the provisions of said article are applicable, and, consequently, your lordship should be pleased to order that the confiscated property, owing to the deterioration it has suffered, as stated, be reappraised by two sworn experts, thus altering the value heretofore assessed on it in order to facilitate its more speedy sale and that its total loss may not result to the
184 prejudice of the royal treasury, and said property being thus appraised let it at once be offered in public sale for the term of nine days, three outcries being afterwards made, and, at the last outcry, adjudication being awarded to the best bidders for parcels, who may appear with the respective bond certificates by persons able to give security for their bids, and these bids shall be good and may be accepted for adjudication thereon, provided that others be not made, a little more in excess of the two-third parts of the amount of appraisement, this being the practice generally observed in all the tribunals. And your lordship will please give notice of this decision to the commanding general; whereupon these proceedings should be referred for the specific objects to the governor of Bexar, who should in due time report the results to this intendancy.

San Luis Potosi, October 29, 1817.

(Lic'do) JOSEF RUIZ DE AGUIRRE.

SAN LUIS POTOSI, *October* 31, 1817.

As the "asesor' advises, let this be communicated to the commanding general of the eastern provinces for his information.
185 This his lordship has decreed and sign- hereto, which he certifies.

ACEVIDO.

Assisting, JUAN JOSÉ DOMINGO, 3.
Assisting, JOSÉ MARIA BURAL.

On the same day an official communication was addressed to the general commanding the eastern provinces, with insertion of the foregoing opinion, which I certify.

—— ——, Paraph.

Statement showing the property sequestered from the rebels of the capital of Texas, according to the inventory existing in the archives of this government, specifying that which has subsequently been returned, donated, and finally ruined by the swollen river in the overflow of the 5th of July of this year, viz:

Fco. Arocha, one stone house on the rear of the main guard-house, composed of parlor and room; has been occupied by the militia company and subsequently by the (? one word illegible in the text).

Vicente Trovieso, one stone house, was used as quarters by the company of Bexar, and now provisionally transferred to the "Cabildo" (city council) by the intendant, and has suffered much
186 injury from overflow.

Man'l Delgodo, one stone house; has been half ruined by the overflow.

Juan Berramendi, do.; was returned by the order of the commanding general.

Antonio Boca, do.; was exchanged by superior order of the general for another house which was annexed to the government building.

José Manuel Delgodo, one stone room; fell in ruins early in 1818.

Jose Delgodo, one stone room, was sold to Don José Rosi by the order of the commanding general.

Clem'te Delgodo, one stone house; was donated to Don José Rosi by the same order.

F'co Rodriguez, one stone room; fell in ruins early in 1818.

Juan Man'l Enriques, one stone room; is uninhabitable, and has been occupied by Coreas Peres since the beginning of 1818.

Man'l Peres, 4 ruined jocales; no longer existing, having been swept off by the overflow.

Miguel del Rio, one stone room; no longer existing, having been ruined by the overflow.

Don Erasmo Seguin, a stone house; returned to him by the
187 order of the intendant, rented, having been transferred to the public school.

Tomas Arocha, one stone house; has been without tenant, and is now occupied by the paymaster of Bexar.

That of the Arocha's, a stone house; has been occupied by the adjutant inspectors, Don Man'l Pardo, and afterwards Don Antonio Puertas, Lorenzo Ramas, one jocal, which was uninhabitable and does no longer exist, having been swept off by the overflow.

José An'to Billegas, do.; does no longer exist, having been swept off by the overflow.

Domingo Acosta, one jocal; do., do.

Claudio Ramires; do. do. do.

F'co Borrego, do.; was occupied from the 1st of September, 1818, by Fulgencio Bustillos, a soldier of Bexar, and does no longer exist, having been swept off by the overflow.

Antonio Boca, two solares; were occupied since the 1st of September, 1816, until the overflow, which ruined them; they were rented at 6 dollars per month, both.

188 Do., 35 varas of land were rented at the same rate from the 1st of July until the overflow, which ruined them.

Do., 51 varas; without tenant.

Do., 35 do., with three jocales; long since in ruins.

Do., 46 do., with two jocales; without tenant; swept off by the river.

Do., 84 do., with two jocales; without do.; swept off do. do.

Antonio Curbelo, one jocal; was occupied since *since* Sept. 1st, 1818, until the overflow by F'co Rodriguez, a soldier of Bexar.

Do., no longer exist, having been swept away by the river.

The Frenchman Gaulet, a frame house; was sold to Don Mariano Lopez by the order of the commanding general.

José Sanchez, one jocal; was sold for 15 dollars to Don Antonio Hernandez in February, 1817, by order of the governor *ad interim* Don Ignacio Perez.

Gertrudis Montes, one ruined jocal, and the land is vacant.

Man'l Delgado, one solar; without tenant.

189 Do., one stone house; was occupied by his master, Juan Galvan, free of rent by the order of the commanding general.

Antonio Castro, one jocal; was sold by the lieutenant of Bexar, José Sandoval, for ten fanegas of corn; he is absent, and must account for it.

Luis Gallardo, one jocal; was sold by the confiscation board.

F'co Carmona, one "chamacuera;" was sold to Jose Pineda by the order of the commanding general.

Joaquin del Toro, one jocal; sold by the confiscation board.

Gabriel de la Ho, one solar; nobody occupies it.

F'co Trabieso, two jocales (I say solares); sold by the confiscation board.

Antonio Carmona, one jocal; the land remains without tenant.

Vicente Tarin, one jocal; does no longer exist, but the land is vacant.

Repomuceno San Meguil, one solar; sold by the confiscation board.

Antonio Montez, one jocal; sold by the same board.

Do., one "suerta" of land; sold by said board.

190 Do., one solar; sold by the aforesaid board.

Cayetano Dominguez, one "suerte" of land; sold to Don Vicente Micheli by the confiscation commission.

Rechard (Frenchman), one frame house; fell in ruins and the "solar" has been held by the blacksmith, Juan Leal, who died without means to pay for it.

Bernardo Benites, one solar; remains without tenant.

Luciano Menchaca, one jocal; fell in ruins and the land remains without cultivation.

Pedro Acasta, one jocal; ceded, until it is sold, free of rent, to the spy of this capital by orders of the former governors.

F'co Arocha, one solar; nobody will occupy it, owing to its bad siuation.

Do., one suerte of land; is in the same case.

Manuel Delgodo, 4 suertes; sold to Padre Zambrano when the general was here.

Antonio Baca, 5 suertes, four of which were given by the general to Don José Granodos; one remains rented for two fanegas
191 of corn.

Jose Leal, one solar; was given to his mother by order of said general.

Antonio Baca, one female slave; was sold, by order of the same general, to her mistress.

Jose Delgodo, 5 hours of water, with land; remains without tenant.

Lorenzo Ramos, one-half "dula" of water, with land; rented for 1 fanega of corn.

Domingo de Acosta, one-half dula of water; rented for do.

F'co Borrego,	do.	do.
F'co Carmona,	do.	do.
Miguel Losoya,	do.	do.

Joaquin Leal, two dulas of water; sold to Padre Zambrano by order of the general.

Juan Martinez, one-half dula; rented for one fanega of corn.

The Frenchman Lumona, 4 female slaves; no longer here since the general left.

Pedro Lauguevillo, six hours of water; rented for a fanega of corn.

Juan Cortes, one-half dula; rented as wrongfully sequestered.

Ant'o Martinez, ½ do.; sold to Baron de Bastrop by the
192 confiscation commissioner.

Jose Cuebas, one-half dula; rented for 1 fanega of corn.

Jose Flores Valdez, one-half dula for one fanega of corn, and the land was sold to Don Erasmo Seguin by the confiscation commissioner.

Marcilo Cervantes, 4 hours of water; not rented.

Juan Diago Veles, one old loom; was swept off by the overflow.

Do., 118 head of small cattle eaten up by the general's troops; 4,567 head of large cattle consumed by the general's army.

916 fanegas of corn consumed by the same.

Bexar, September 10, 1819.

A correct translation.

X. B. DEBRAY.

THE STATE OF TEXAS, *County of Travis:*

I, X. B. De Bray, Spanish translator of the General Land Office, certify the foregoing to be a true copy (marked B (2)) and correct translation of the Spanish document "B" (1) and identified with my signature.

X. B. DEBRAY.

193 Sworn to and subscribed before me this 21st day of February, 1884.

[SEAL.] FRANK BROWN,
Clerk County Court Travis County, Texas.

Endorsed: "B" 2. No. 53. Translation of list of property seized 1817. Sabriego *et al. vs.* Mary A. Maverick *et al.* Filed March 13, 1884. W. C. Robards, clerk.

194 Translation of confiscation proceedings of 1819, marked "C 2," and referred to in plaintiffs' first bill of exceptions as follows, viz:

Endorsed: "C 2." 1819. No. 53. Sabariego *et al. vs.* Mary A. Maverick *et al.* Translation of confiscation proceedings of 1819. Filed March 13th, 1884. W. C. Robards, clerk.

195 "C 2."

Translation of Confiscation Proceedings of 1819.

Intendancy of San Luis Potosi. Year 1819.

The Governor of Texas reports the injury caused by the overflow undergone by the city of Bexar on the fifth of July to the landed estate confiscated from the insurgents.

196 Statement of the houses and "jocales" (thatched cabins) belonging to the royal domain as confiscated from the rebels which have been ruined in the overflow of the city of Bexar, which took place in the morning of the 5th of July.

Houses and "Jocales."

That of Don Vicente Travieso, situated on the main plaza.	Has been shattered, and must necessarily fall in ruins.
That of Jose Manuel Delgado, which was a stone room at the south corner of the plaza.	Ruined before the overflow.
Francisco Rodriguez, a stone room on Curvelos street.	Leaning from the perpendicular.
Juan Manuel Enriguez, on same street.	Partly in ruins, and the rest must soon fall.
Manuel Perez, 4 jocales situated in the same locality.	Swept off by the river.
Miguel del Rio, a stone room situated in the southern block of the military plaza.	In ruins.
Lorenzo Ramos, a jocale in the Potreo.	Swept off by the river.
Jose Antonio Villegas, a jocal in do.	do. do.
197 Domingo Diogo Mautes, a jocal in do.	
Francisco Borrego, a jocal do. do.	
Antonio Baca, two lots close to the bridge in the Potreo.	The jocales were swept off by the river, and the soil has become unfit for cultivation.
Do. of the same, two other jocales with back to the river.	Swept off by the stream.
Do. of the same, 35 varas of land on the south side, with 3 jocales.	In ruins before the overflow.

Do. of the same, 46 varas front with back on the river, and besides two jocales.	Swept off by the river.
Do. of the same, 84 varas front and 50 in depth, and besides two jocales.	Swept off by the river.
Jose Antonio Curbelo, a jocale on the spring near the bridge.	Swept off by the river.
Richard Frances, a wooden house close to the river.	do.

Bexar, the 8th of July, 1819.

JOSÉ FLORES DE ABREGO.

198 Examined.

MARTINEZ.

One the morning of the 5th instant, in consequence of a terrific water-spout which bursted north of this city, the river became so swollen as to run over its banks, causing a general overflow such [as] has never been beheld in the province before, leaving the city in such a condition that it may be said to exist no longer, and its inhabitants (those who were not victims of the fury of the waters) being reduced to the most lamentable destitution. The landed estate belonging to the royal domain by sequestration has been ruined by that overflow, a statement of which property I enclose herewith for the knowledge of your lordship. The unfortunate condition of this people did not allow me to offer that property for sale, as your lordship had instructed; now and for better cause it will be more difficult, and all the houses left standing will by degrees fall in ruins, as they have been considerably shattered
199 by the overflow; even the parcels of cultiva-ble land are no longer fit for cultivation. Therefore your lordship will please determine as you may deem most advisable, in order that the royal domain may not suffer a total loss. May God preserve you many years.

Bexar, July 9, 1819.

ANTONIO MARTINEZ.

To the intendant, Don Manuel Asevedo.

One "quartillo" fourth [L. s.] stamp, one quartillo, years eighteen hundred and sixteen and eighteen hundred and seventeen. One "quartillo."

September 13th, 1819.

[L. s.] LUIS POTASI.

Let the governor of the province of Texas be notified that this intendancy is informed of the occurence referred to in the foregoing letter, and that inasmuch as the property mentioned in the accompanying list has suffered so great injury, while other property is completely falling into ruin, he will cause the same to be appraised again by experts sworn in due form, and that it be *set* at auction, to be awarded to the best bidder, conforming himself, so far as the said occurrence allows, to the order given on the subject and con-

tained in the proceedings addressed to him on the thirty-first
200 of October, eighteen hundred and seventeen. Thus it has been determined and signed by the "Señor Intendente Corregidor" of this Province, by the advice of his "Intendente Letrodo," before me, which I certify.

MANUEL DE ACEVEDO,
Licenciado Josef Rusi de Aguirre.

Before me—

ANTONIO MARIA JUARES,
Notary Royal and Military Intendente of State.

On the seventeenth of the same month the letter was dispatched as by orders.

JUARES.

Statement of property this day in existence confiscated from the rebels of this capital of Texas, viz:

Francisco Arocha, one stone house on the rear of the main guard-house, composed of parlor and room, with 22 varas in front and 86 in depth.

Vicente Travieso, a stone house, situated on the plaza, composed of parlor, two closets, stone, and back room.

Manuel Delgado, a stone house, situated on the street on the river bank leading to the palace, composed of hall, parlor, closet, and room, with 39 varas front and 16 in depth.

Juan Manuel Enriquez, a stone room, situated on Curvelas
201 street, with 6 vs. front and depth to the river; is no longer inhabitable.

Manuel Perez, a stone room, situated on the same street, with 11½ varas front.

Tomas Arocha, a stone house, situated on Flores street, composed of parlor and room, with 15½ varas front and 50 in depth; one-half of which belonging to Don José Antonio Romero as his father's inheritance; only the other half belongs to the King.

The house belonging to the Arochas by inheritance, stone built, composed of hall, parlor, closet, and one room, with 40 varas front and 66 in depth.

Antonio Baca, two lots close to the bridge, composed of a parcel land without buildings, with 32 varas front and depth to the river; the overflow left it unfit for cultivation.

Do., 35 varas front and depth to the same river; left in same condition.

Do., 51 varas front and depth to the river; left in the same condition.

Do., 46 varas front and depth to the river; do.

Do., 84 varas front and 54 in depth; in like condition.

202 Manuel Delgado, one lot situated on Laredo street, with 40 varas front and 50 in depth.

Do., a stone house, situated on the same street, with 17 vs. front an- 50 in depth. It is occupied by its owner, Galvan, by the order

of the commanding general, one-half belonging to the king and the other half to him.

Gabriel de la O., one lot at the Alama, 80 varas (front)—I say square; it is not cultivated.

Francisco Martinez, a tract of land, with 16 varas front and 60 in depth; not cultivated.

Antonio Carmona, a place at the Alamo, with 25 varas front and 30 in depth; it is not cultivated.

Vicente Tarin, a place at the Alamo, with 5 vs. front and 25 in depth; it is not cultivated.

Rechard Framis, a tract of land at the quarters, with 20 vs. front and depth to the river; it is not cultivated.

Bernaudo Benites, a lot in the Laredo; it is not leased.

Luciano Menchoca, a place with 25 vs. front and 50 in depth; it is not leased.

203 Pedro Acosta, a small lot at the Laredo, with 42 vs. front and depth to the river; he occupied it without lease as spy for the capital by the order of the general.

Francisco Arocha, one lot at the Apache crossing; it is not occupied, owing to its bad situation.

Do., one "suerte" of land in the upper labor; not rented.

Antonio Baca, one suerte of land in the Valero labor, with 2½ days of water.

José Delgado, 5 hours' water, with the respective land.

Lorenso Ramas, one-half stock watering privilege (*media dula de agua*), with its land.

Domingo de Acosta, do., do.
Francisco Barrego, do., do.
Francisco Carmona, do., do.
Miguel Lasoya, do., do.
Juan Martinez, do., do.
Pedro Langueville, six hours' water, do.
Jose Cuevas, one-half stock watering privilege, do.
Jose Flores, do., do.
Manuel Cervantes, 4 hours' water, do.

Bexar, September 10th, 1819.

JOSE FLORES.
MARTINEZ.

Exhibit of the property sequestered from the rebels of the capital of Texas according to the inventory existing in the
204 archives of this government, stating what was subsequently restored, donated, and received, and finally swept off by the waters of the river in the overflow of the 5th of July of this year, viz:

Francisco Arocha, a stone house, on the rear of the main guard-house, composed of parlor and room; was occupied for quarters of the company of militia, and afterwards has been occupied by the park of artillery.

Bisente Travieso, a stone house; was occupied as quarters by the company of Bexar, and now has been provisionally transferred by

the intendancy to the city council, and has suffered great injury from the overflow.

Juan Beramandi, do.; it was returned to him by the order of the commanding general.

Antonio Baca, do.; was exchanged by superior order for another house, which was united to the government building.

Jose Manuel Delgado, a stone room; fell in ruins at the beginning of 1818.

Jose Delgado, a stone room; was sold to Dan José Rosi by
205 the order of the commanding general.

Clemente Delgado, a stone house; was donated to Don José Rosi by the same order.

Francisco Rodriguez, a stone room; fell in ruins in the beginning of 1818.

Juan Manuel Henriquez, a stone room, is not inhabited; has been occupied by Carlos Perez since the beginning of September, 1818.

Manuel Perez, a stone room; has been occupied by Manuel Fuentes, a soldier of Bexar, since the 1st of September, 1818.

Do. Manuel Perez, four "jocales," in ruins; no longer existing, having been swept off by the overflow.

Miguel del Rio, one stone room; no longer existing, having been ruined by the overflow.

Don Erasmo Seguin, a stone house; restored to him by the order of the intendancy, and was not leased before because it was attributed to the public schools by superior orders.

Tomas Arocha, a stone house; remained without a tenant and is now occupied by the financial agent of Bexar.

206 That of the Arochas, a stone house; has been occupied by the inspecting adjutants, Don Manuel Pardo and Don Manuel Puertas.

Lorenzo Ramas, a jocal; was not inhabitable and exists no more, having been swept off by the overflow.

Domingo Acosta, a jocal; do. do.

Claudio Ramirez, a do.; do.

Francisco Borrego, a do.; was occupied since the 1st of September, 1818, by the soldier of Bexar Fulgencio Bustillos; exists no longer, having been swept off by the overflow.

Antonio Boca, two lots; they were occupied from September 1st, 1816, until the overflow, which ruined them. They were rented at $6.00 per annum.

Do., 35 varas of land; they were leased in the same manner from July 1st, 1817, up to the overflow, which ruined them.

Do. 51 varas; without any tenant.

Do. 35 do. with three "jocales;" long since ruined.

Do. 46 do. with two do., without tenant; they were swept off by the river.

Do., 84 varas with 2 do. without tenant; do.

207 Jose Antonio Curbelo, one "jocal;" was occupied from the 1st of September, 1818, up to the overflow by the soldier of Bexar, Francisco Rodriguez; it exists no longer, having been swept off by the river.

The Frenchman Gualeto, a wooden house; was sold to Don Manuel Lopez by the order of the commanding general.

Jose Sanchez, one "jocal;" was sold for $15.00 to Dona Antonio Hernandez, in February, 1817, by the order of the governor *ad interim*, Don Ignacio Perez.

Gertrudis Montes, one jocal; ruined and the land is vacant.

Manuel Delgado, one lot, without tenant.

Do. one stone house; is occupied by its owner, Juan Galvan, without lease, by the order of the commanding general.

Antonio Castro, a jocal; was sold by the lieutenant of Bexar, Don José Sandovol, for ten fanegas of corn; he is absent and is answerable for the same.

Luis Gallardo, a "jocal;" was sold by the sequestration board.

Francisco Carmona, one "chamocuero" (cabin covered
208 with hides); was sold to José Pineda by the order of the commanding general.

Joaquin del Toro, one jocal; sold by the same board.

Gabriel de la O., one lot; there is no occupant.

Francisco Martinez, a "jocal;" do. do.

Francisco Travieso, two lots; sold by the sequestration board.

Antonio Carmona, a jocal; the land has no tenant.

Bicente Tarin, a jocal; does no longer exist, and the land is vacant.

Repomuceno San Miguel, one lot; sold by the sequestration board.

Antonio Martinez, one jocal; do. do.

Do. one lot; do. do.

Calletuno Dominguez, one "suerte" of land; sold to Don Vicente Micheli by the commissioner of sequestration.

Rechar Frances, one wooden house; fell in ruins and the lot was occupied by the blacksmith, Juan Leal, who died without having enough to pay.

Bernardino Venites, one lot; has no tenant.

Luciano Menchaca, one jocal; fell in ruins and the soil remains without cultivation.

Pedro Acosta, one jocal; occupied without paying rent
209 until it is sold by the spy of this capitol, by the order of former governors.

Francisco Arocha, one lot; nobody will occupy it, owing to its bad situation.

Do., one "suerte" of land; is in the same condition.

Manuel Delgado, 4 "suertes;" sold to Padre Zambrano when the commanding general was here.

Antonio Baca, five "suertes;" four of them were given by the general to Don Jose Granodas, and one is leased for two fanegas of corn.

José Leal, one lot; given to his mother by the order of the general.

Antonio Baca, one female slave; was sold by the order of the same general to her mistress.

José Delgado, 5 hours of water with land; there is no tenant.

Lorenzo Ramas, one-half stock watering privilege, with land; rented for one fanega of corn.

Domingo Acosta, do. do.
Francisco Borrego, do. do.
Francisco Carmona, do. do.
Miguel Losoya, do. do.
Joaquin Leal, two stock watering privileges with land; sold to Padre Zambrano by the order of the commanding general.

210 Juan Martinez, one-half stock watering privilege; rented for one fanega of corn.

The Frenchman Labome, four female slaves; have not been here since the general left.

Pedro Langueville, 6 hours of water; rented for a half fanega of corn.

Juan Cortez, one-half stock watering privilege; was restored to him, having been wrongfully sequestered.

Antonio Martinez, one-half do.; sold to Baron de Bostrop by sequestration agent; Jose Cuevas rented for one fanega of corn.

Jose Flores Valdez, do. do. do. do., and the "Rincan" (bend); sold to Don Erasmo Seguin by the sequestration agent.

Marcelo Cervantes, four hours of water; not rented.

Juan Diago Belos, an old loom; swept off by the stream.

Do., 118 head of small cattle; eaten up by the troops of the commanding general.

4,567 head of large cattle; consumed by the army of said commanding general.

916 fanegas of corn; consumed by the same.

Bexar, September 10, 1819.

JOSÉ FLORES.

Examined:
MARTINEZ.

211 Statement of documentary values existing in the hands of the commissioner of property sequestered from the rebels of this capital.

	Dollars.	"Reals."
1 bill against the soldiers of the Bexar company, Francisco Rodriguez and José Pineda, for rent of house in which they lived	12	
1 do. against Carlos Perez, of the same company	6	
1 do. against Deonicio Sanchez, do. do. do.	6	
1 do. against José Tobar, of the Rio Grande company	30	
1 do. against Lieutenant José Sandovol	49	4
1 do. against the Bexar company for corn delivered, proceeding from the lease of lands	36	
Total	139	4

Bexar, September 10th, 1819.

JOSÉ FLORES.

Examined:
MARTINEZ.

Considering that the overflow of the 5th of July last past resulted in the ruin of several houses and all the "jocales" which were sequestered and belong to the royal domain, I instructed the agent of said property to make statements, which I
212 enclose herewith to your lordship for your information. One of these statements exhibits all the sequestered property, as I did formerly report to your lordship, stating the disposition made of that property. The other statement shows what is this day remaining of said property, with the remark that in relation to the arable lands most of it has been destroyed by the overflow, being situated in close proximity to the banks of the river, and they are no longer fit for cultivation. I also enclose to your lordship a statement a- required of the same commissioner, who has not one "real" on hand, but holds some bills, part of which may be collected, being against the troops, to which they may be charged on their accounts; others, however, will be of difficult collection, being due by several parties whom the late misfortune has left in the greatest destitution, and now exclusively depending on the charity of his excellency, the viceroy, who has sent $29.00 for the purpose, and
213 of the most illustrious prelate, Don Jose Ignacio de Aransivia, who contributed $19.00. However, your lordship will determine as you deem just. May God preserve your lordship many years.

Bexar, September, 1819.

ANTONIO MARTINEZ.

To the intendant, Don Manuel de Acevedo.

LUIS POTOSI, *October 20th*, 1819.

Let this letter and accompanying documents be filed with the former proceedings existing in this intendancy, and be referred to the "promoter fiscal," and according to his request to the assessor.

[L. S.] ACEVEDO.

Antonio Maria Guares, one "quartillo"; fourth stamp, one quantillo; years eighteen hundred and sixteen and eighteen hundred and seventeen, one quartillo.

[L. S.] [L. S.] One quartillo.

Proceedings of Sale of the Property Sequestered from the Rebels for the Account of the Royal Revenues.

Year 1819.

The real estate sequestered in this capital from the rebels, having to be sold for the benefit of the royal treasury, in order that
214 said royal treasury may not lose all its interests owing to the great depreciation suffered by said property; and by virtue of the orders received by me on the subject I commission you jointly with the inhabitants, Don Vicenti Gorturi, first regidor, and Don Jose Flores, agent of said property, to proceed to said sale, in accordance with the opinion of the assessor of the intendancy of San Luis

Potosi, a copy of which I enclose to you in order that you may conform with it in all its points, and to form the heading of the proceedings to be instituted on the subject. I do likewise enclose a statement of the houses and lands which must be sold according to the last apprais-ment made by the experts, Jose Donaciano Ruiz and Francisco Zapata, master masons, for the houses, and for the lands by the farmers Francisco Flores, Don Santiago Seguin, Diago Perez, and Jose Gomez, to whom I did administer the oath to proceed to the apprais-ment; and you will inform me of the result
215 and forward said proceedings to me. May God preserve you many years.

Bexar, 6th of November, 1819.

ANTONIO MARTINEZ.

To Captain Don Manuel Cedron.

POTOSI, *the 20th of October*, 1817.

Let the letter of the governor of the province of Texas and the accompanying inventory and statement of houses sequestered from the rebels of Bexar be filed, advising whether any of them may be sold, and let the whole be referred for advice to the assessor for such determination as deems proper. The "intendante corregidor" of this province, Don Manuel Jacinto de Acevedo, has thus determined and ordered and signed hereto with assisting witnesses, in default of a notary, which I certify.

MANUEL DE ACEVEDO.

Assisting:
JUAN JOSE DOMINGUEZ.
JOSE MARIA LOMA.

To the intendant.

Article 82 of the royal ordinance of December the 4, 1786, gives power in case that in the territory of this province the case should arise to confiscate any property, it should be the special duty
216 of your lordship to proceed to the al*eni*ation and to the collection of the proceeds, notwithstanding all pleadings and applications subsequently made. On this same subject orders were subsequently issued referring to property confiscated from the rebels. Consequently, and whereas the Governor of the province of Texas states at the beginning of the statement made on the 19th of September of this year that the confiscation from the inhabitants referred to in it was made by the order of the commanding general of the eastern provinces, the case referred to in said article exists, and therefore your lordship should order that the confiscated property, owing to the depreciation suffered by it, shall be appraised again by two sworn experts, thus modifying the prices formerly assessed, in order to facilitate a prompt sale and to avoid a total loss to the injury of the royal treasury; and that said property, upon being thus
217 appraised, be placed at auction for nine days, and afterwards *being* cried three times, and at the last cry be adjudicated to the best bidder or bidders for parts who may appear with proper security papers by individuals able to be good for their bids, and

said securities shall be good and may be accepted in proceeding to the adjudication, provided that no other parties do not offer a little more than two-thirds of the appraisement, this being the practice habitually observed by all courts; and your lordship should inform the commanding general of this determination, and subsequently refer these proceedings for the contemplated purposes to the said governor of Bexar, who will in due time report the results to the intendancy.

San Luis Potosi, October 29, 1817.

LICINCIADO JOSÉ RUIZ DE AGUIRRE.

SAN LUIS POTOSI, *October 31st*, 1817.

Agreeably to the advice of the assessor, this will be communicated to the commanding general of the eastern provinces for his information.

218 Thus his lordship has decreed and did sign hereto, which I certify.

ACEVEDO.

Assisting:
JUAN JOSE DOMINGUEZ.
JOSE MARIA LOMA.

I, Don Antonio Martinez, Knight of the Royal Order San Hermenegildo, colonel in the royal armies, and civil and military governor for his majesty of this province of the Texas, New Philippines, &c., do certify that the foregoing opinion is a literal copy of that appearing in the proceedings referred from the intendancy of San Luis Potosi and existing in the archives of government in my charge, and for due authenticity I have signed hereunto at Bexar the 6th of November, 1819.

ANTONIO MARTINEZ.

Exhibit of property sequestered from the rebels, to be offered at public auction, with statement of the value of the same according to the last appraisement.

Francisco Arocho's house, situated on the rear of the main guard-house, composed of parlor and room, with 22 varas front and 60 in depth	600
219 Vicente Trovieso's do., situated on the plaza, composed of hall, parlor, two closets, store, and rear room	4,500
Manuel Delgodo, do., on the river-bank street leading to the palace, composed of hall, parlor, closet, and room, with 29 varas front and 16 in depth	500
The ground of José Manuel Delgodo's do., room, with depth to the river	17
The ground of F'sco Rodriguez' room	14
Juan Manuel Erriguez' room, Curvellos street, with 6 varas front and depth to the river	50
Manuel Perez, two jocales in ruins	32
The same, one room adjoining the jocales	130
Manuel del Rio's quarter on the military plaza, in ruins	50

Tomas Arocho's stone house, Flores street, composed of parlor and room 15½ varas front and 50 in depth, one-half of which belongs to José Antonio Romero by inheritance from his father ---------- 300
The Arocho's house, composed of parlor, closet, and one room, with 40 v's front and 766 in depth ---------- 1,500
Manuel Delgodo's house, Upper Labor street, with 17
220 varas front and 50 in depth, one-half of which belongs to Juan Galvan ---------- 150
The ground of Lorenzo Ramos' jocal, no value, being worthless ---------- 0
The grounds of Gertrudis Montes' jocal, with 26½ front and 30 in depth ---------- 20
Manuel Delgoda's lot, Upper Labor street, with 40 varas front and 50 in depth ---------- 40
Gabriel de la O.'s lot at the Alamo, 8 v's square ---------- 12
Francisco Martinez' do., with 16 v's front and 60 in depth ---------- 60
Antonio Carmona's do., 25 v's front and 50 in depth ---------- 18
The ground of Rechord Frames' house at the Alamo, with 20 varas front and depth to the river ---------- 20
Bernardo Benites' lot in Laredo ---------- 20
Luciano Menchaco's ground of a jocal, with 35 v's front and 50 in depth ---------- 26
Pedro Acosta's lot in Laredo, with 42 v's front and depth to the creek ---------- 42
Francisco Arocha's lot at the Apache crossing ---------- 25

"Suertes."

Francisco Aracho's suerte, with 24 hours of water ---------- 50
221 Antonio Baca's suerte, with one-half stock watering privilege ---------- 50
José Delgodo's suerte, with 5 hours' water ---------- 25
Lorenzo Ramos' suerte, with one-half stock watering privilege ---------- 50
Domingo Acosta's suerte ---------- 50
Francisco Borrego's " ---------- 50
Francisco Carmona's suerte ---------- 50
Miguel Lasoya's " ---------- 50
Juan Martinez' " ---------- 50
Pedro Langeville's suerte, with 6 hours' water ---------- 20
Juan Cortez' suerte ---------- 40
José Cuevas' do. ---------- 40
Jose Flores' suerte, 21 hours' water ---------- 80
Marcelo Cervantes' suerte, 4 hours' water ---------- 10
Antonio Baca's suerte ---------- 40
The same " ---------- 50
The same " ---------- 40

Bexar, the 6th of November, 1819.

ANTONIO MARTINEZ.

Pursuant to your lordship's order to proceed to the sale and adjudication of the property sequestered from the rebels of this province, the same was placed at auction for the term of nine days, after which it was cried three times, as prescribed by the order of the intendant of San Luis Potosi, said property and grounds being adjudicated at the last cry, as appears from the documents which we return
222 to your lordship, with others referred by you to this board for your information, with the understanding that the buyers have been notified to keep the amounts in which the adjudication was made subject to your lordship's pleasure. The other property has not been adjudicated, because no bidders presented themselves.

May God preserve your lordship many years.

Bexar, November 22, 1819.

MANUEL CEDRAN.
VICENTE GORTORI.
JOSÉ FLORES.

To Governor Don Antonio Martinez.

In the city of San Fernando de Bexar, on the twenty-second day of the month of November, in the year eighteen hundred and nineteen, we, the board of commissioners organized for the sale of the property sequestered from the rebels of this province by the order of the governor of the same, Colonel Don Antonio Martinez, viz., Captain Don Manuel Cedran, Don Vicente Gortari, first regidor of the ayuntamiente of this capital, and the inhabitant Don Josef Flores de Abrego, by virtue of the order of the said governor heading these proceedings, in consequence of the order received
223 by that chief from the intendancy of San Luis Potosi, also herein instead, to proceed to the sale of said property sequestered, as appears in the exhibit accompanying the order of said governor, the whole for the benefit of the royal treasury, do certify and, so far as we are able, do pledge our faith that after having placed said sequestered property mentioned in the above-recited order and exhibit at auction for the term of nine days, and caused the same to be cried three times, according to the order of the intendant of San Luis Potosi, they were adjudicated at the last cry, which took place on the twenty-first instant: The Arocho's house, in the sum of two thousand and twenty-five dollars, in favor of the merchant Don Manuel Sturri.

The ground of Josef Manuel Delgodo's room, in favor of Don Domingo Bustillo, in that of thirteen dollars.

Another do. of Francisco Rodriguez to the same, Domingo Bustillo's, in that of ten dollars.

Manuel Delgodo's house, in favor of captain of militia,
224 Lieutenant Colonel Don Ignacio Peres, in that of five hundred dollars.

Likewise, adjudication was made of Francisco Borrego's suerte, in favor of Dronicio Martinez, in the quantity of fifty dollars.

That of Miguel Lasoya, also in favor of Captain Don Francisco Garcia, in — fifty-five dollars.

That of Domingo Acosta, in favor of Don Gregoirie Arsiniega, in — fifty dollars.

That of Lorenzo Romas, in favor of Josef Lofose, in — fifty dollars.

That of Langueville, in favor of the same, Pedro Langueville, in — fifty-two dollars.

That of Juan Martinez, in favor of Don Joseph Antonio de la Garza, in — fifty-five dollars.

That of Francisco Arocha, in favor of Ermengildo Seguin and the soldier of the militia company Joseph Maria Ramirez, in — ninety-five dollars

That of Joseph Flores Valdes, in favor of the curate *ad interim* Don Davis Sambrano, in — sixty dollars.

That of Joseph Cuevas, in favor of Don Josef Antonio de la Garza, in — twenty-eight dollars.

225 Likewise, the lot of Antonio Ramirez was adjudicated in favor of Don Gregorie Arcineiga in the sum of seventy-four dollars.

That of Luciano Menchaca, in favor of Don Joseph Maria Escaleva, in — eighteen dollars.

That of Pedro Acosta, in favor of Victoriano Lasoya, in thirty dollars.

To which parties adjudication was made, being the only ones whose respective bids reached the limits specified, no other party having bidden over them, nor did buyers present themselves for the other property contained in the governor's statement; and for due authenticity, wherever it may be proper, we give the presents, signed by us on the aforesaid day, month, and year.

MANUEL CEDRAN,
VICENTE GORTORI,
JOSÉ FLORES,
Presidial Company of Bexar.

Received from the board commissioned by the governor of the province, Colonel Don Antonio Martinez, the sum of three thousand one hundred and fifty-five dollars, proceeds of the sale of
226 rebel property in favor of the royal treasury, which shall be charged to this company, of which I am the fiscal agent, and used for the support of the troops in said province.

Bexar, November 27th, 1819.

$3,155.00.

ALEXANDRO TRAVIÑO.

Examined.

MARTINEZ.

The property sequestered from the rebels in this capital having been offered for sale by virtue of your lordship's order to me on the subject, I enclose to you the proceedings formed concerning said sale, together with the receipt of the sum of three thousand one hundred and fifty-five dollars, proceeds of the sale of said property, which amount was received by the financial agent of this presidial company for the support of the troops of this province, which had no

means whatever. Therefore I hope that, should your lordship deem it proper, *that* the royal treasury department at Saltillo will be instructed to charge the same *agent* the said Bexar Company.

As to the property still remaining unsold, no bidder having
227 presented himself, owing both to the depreciated condition of the same, and to the poverty of the population, which does not permit them to buy it; some purchasers might present themselves if it were sold on credit, which point I did not wish to determine, because, although some honorable persons may be found able to assume that indebtedness, the uncertainty of the crops and their reduced proportion might prevent them from meeting it. However, your lordship will determine as you deem advisable.

Respecting the house sequestered from the rebel, Vicente Travieso (which has been provisionally transferred to the ayuntamiento of this city by your lordship's order), no bidder will ever appear, because it has been materially injured by the overflow, and it would be impossible for the whole population to raise the four thousand five hundred dollars, amount of its reduced appraisement. May God preserve your lordship many years.

Bexar, December 10th, 1819.

ANTONIO MARTINEZ.

To the intendant, Don Manuel de Acevedo. Potosi, January, 20th, 1820.

228 To the "promotor fiscal," in whose office the former proceedings exist, Licenciado Ruiz de Aguerro:

I return these proceedings, after having taken proper action thereon and on the former proceedings, without the respective request-, in order that the "juez de letros" of the respective district- may act as he deems just.

Potosi, April 16th, 1821.

LICENCIADO MARQUEZ.

THE STATE OF TEXAS, *County of Travis:*

I, X. B. Debray, Spanish translator of the general land office of the State of Texas, certify the foregoing, marked C (2), is a correct translation of the Spanish document marked C 1 and identified with my signature.

X. B. DEBRAY.

Sworn to and subscribed before me this 21st day of February, 1884.

[Seal County Court of Travis County, Texas.]

FRANK BROWN,
Clerk County Court, Travis County, Texas.

229 Endorsed: C (2). 1819. No. 53. Sabariago *et al vs.* Mary A. Maverick *et al.* Translation of confiscation proceedings of 1819. Filed March 13th, 1884. W. C. Robards, clerk.

230 Translation of deed, November 23, 1819, marked "D 2," and referred to by plaintiffs in their first bill of exceptions, as follows, to wit:

Endorsed: No. 53. Translation of copy of deed of Nov. 23d, 1819. "D 2." X. B. Debray. Filed March 13th, 1884. W. C. Robards, clerk.

231 "D 2."

Translation of Deed. Nov. 23, 1819.

Valid during the reign of our Lord Ferdinand 7th.

4th stamp, 1819.

The party interested paid in this revenue office, in my charge the half "real," cost of this stamp.

Bexar, Nov. 23, 1819.

LUIS GALAU (Paraph).

In the city of San Fernando de Bexar, on the twenty-third day of the month of November, in the year eighteen hundred and nineteen, we, the commissioners of the board organized for the sale of property confiscated from the rebels of this province, by the order of the governor of the same, Colonel Don Antonio Martinez, viz., Captain Don Manuel Cedron, Don Vicente Gortori, first regidor of the ayuntamiento of this capital, and the resident José Flores de Alrego, by virtue of the order of the said governor, in consequence of the order received by said chief from the intendancy of San Luis Potosi, to proceed to the sale and adjudication of said confiscated property for the benefit of the royal treasury, do certify and do, so far as
232 we can, bear evidence that after said property was offered in public auction, according to accustomed processes, the "suerte" of Miguel Lasoya was adjudicated in favor of Don Francisco Garcia in the sum of fifty-five dollars, being bounded on the north by the land of the widow of Vicente Amador, on the south by that of Cipriano Lasoya, on the east by the wall of the mission of Balero, and on the west by the land of Don Francisco Collantes and Manuel Hirnines, which tract of land was delivered by said board to Captain Don Francisco Garcia in the specified sum of fifty-five dollars, which he paid in current money for the benefit of the royal treasury, in consideration whereof he shall possess it now and hereafter as its lawful lord and owner, remaining at liberty to sell it again, to donate or transfer it by inheritance to whomsoever it may be his will, so that no contradiction may be opposed as to the free-
233 dom in which he remains to make use of it; and for due authenticity, and in order that this evidence of sale may avail him as a title and muniment in the archives of the Government, and that as many copies of the same may be delivered to the party interested as he may desire, we sign these presents in the city of Bexar on the day, month, and year above stated.

MANUEL CEDRON (Paraph).
VICENTE GORTARI (Paraph).
JOSÉ FLORES (Paraph).

I approve this sale.
MARTINEZ (Paraph).

A correct translation.
X. B. DEBRAY.

THE STATE OF TEXAS, *County of Travis:*

I, X. B. Debray, Spanish translator of the general land office of the State of Texas, certify that the foregoing, marked D (2), is a correct translation of the Spanish document marked D 1 and identified with my signature.

X. B. DEBRAY.

Sworn to and subscribed before me this 21st day of February, 1884.

[Seal County Court of Travis County, Texas.]

FRANK BROWN,
Clerk County Court, Travis County, Texas.

234 Endorsed: No. 53. Translation of copy. Deed of Nov. 23, 1819. D (2). X. B. Debray. Filed March 13, 1884. W. C. Robards, clerk.

235 Interrogatories propounded by the plaintiffs to JUAN N. SEGUIN, a witness for the plaintiffs, a resident of the republic of Mexico, but now temporarily residing at Laredo, in the county of Webb, State of Texas, and referred to in plaintiffs' first bill of exceptions as follows, to wit:

Endorsed: No. 53. Sabariego *et al. vs.* Maverick *et al.* Interrogatories to be propounded to Juan N. Seguin. Filed July 1, 1882. W. C. Robards, clerk.

236 *Interrogatories to be Propounded to Juan N. Seguin.*

Interrogatories to be propounded to Juan N. Seguin, a resident of the republic of Mexico, and temporarily residing in Laredo, Webb county, in the State of Texas.

Interrogatory No. 1. What is your name and age?

Interrogatory No. 2. Where do you now reside, and
237 & 238 where did you reside prior to the year 1835 and 1836? *1835 and 1836?*

Interrogatory No. 3. If you say you ever resided in San Antonio de Bexar, Texas, please state how long you resided there—from what year to what year.

Interrogatory No. 4. What official positions, if any, did you hold or occupy during the time you resided in Bexar county, Texas, and in what years did you hold them?

Interrogatory No. 5. Are you acquainted with the suertes of land in the city of San Antonio, Texas, lying west and northwest of the Alamo Plaza, and which were formerly of the lands of the Mission

de Valero? If yea, how, from whom, and by what means did you obtain this information?

Interrogatory No. 6. If you say you know those lands, then please state how far back your recollection of the same extends, and how old were you then.

Interrogatory No. 7. If you have answered that you knew said suertes of land, then please state if you ever knew among said suertes a suerte called or known as the Miguel Losoya suerte.

239 Interrogatory No. 8. If you say you knew such a suerte, then state when you first became acquainted with it.

Interrogatory No. 9. If you have stated that you knew said Miguel Losoya suerte, then state how it was situated and by what lands it was bounded when you first knew it.

Interrogatory No. 10. In this connection also state, if you can, if you know a suerte owned or claimed by Cipriano Losoya; if you did, then state, if you happen to recollect, how it was situated relative to the Miguel Losoya suerte—in what direction from it.

Interrogatory No. 11. Did you ever happen to know the aforesaid Miguel Losoya by reputation or otherwise; and, if yea, is he living or dead, and who was he?

Interrogatory No. 12. If you have stated the aforesaid Miguel Losoya is dead, then state, if you know, when and where he died, and how old was he at the time he died?

Interrogatory No. 13. Do you know who, if any one, held possession of the said Miguel Losoya suerte in the year 1820, and

240 from that time forward? If you do, state who was in such possession, and state how you know this fact.

Interrogatory No. 14. If, in answer to the preceeding interrogatory, you say that the said Miguel Losoya suerte was cultivated at any time from 1820 to 1836, or later, please state by whom was it cultivated, and for whom, and at what time?

Interrogatory No. 15. Did you ever know one Captain Don Francisco Garcia? If yea, where did you know him?

Interrogatory No. 16. If you state that you knew Captain Don Francisco Garcia, then state if he had any children; and, if so, how many, and what were their names, and where did he then reside?

Interrogatory No. 17. Were you ever acquainted with one Manuel Sabariego? If yea, who did he marry, if any one, and give the name of his wife's father and mother, and where did you know him?

Interrogatory No. 18. If, in answer to interrogatory No. 13, you say that Francisco Garcia held possession of the Miguel Losoya suerte any time from 1820 to 1836, or later, then state fully how he held such possession, whether in person or by tenant.

241 Interrogatory No. 19. Please state all you *you* may know, if anything, relative to the possession of said suerte by the said Francisco Garcia, and how he came into possession of the same, if at all, and what acts of dominion and ownership he performed, if any, and when and to what time.

Interrogatory No. 20. When, if ever, did the said Francisco Garcia

leave San Antonio de Bexar, and where did he go to reside, if anywhere?

Interrogatory No. 21. If, in answer to the last interrogatory, you say he left San Antonio and went to La Bahia, then state, if you happen to know, who, if any one, did he leave in charge or control of said suerte of land?

Interrogatory No. 22. If, in answer to the last interrogatory, you have stated that Francisco Garcia left an agent in San Antonio, then state who that agent was.

Interrogatory No. 23. If you have answered that Ramon Musquiz was the agent of Francisco Garcia, then state fully what acts
242 or control, if any, the said Musquiz exercised as such agent over the Miguel Losoya suerte, and state in this connection, if you happen to know, who was the said Musquiz and what official posts did he hold, if any, and whether he is living or dead.

Interrogatory No. 24. Was or was not the said Miguel Losoya suerte ever known by any other name? And if known by any other name, state it.

Interrogated No. 25. If in answer to the last interrogatory you have stated that the Miguel Losoya suerte was also known as the Francisco Garcia suerte of land, then state fully how and when it became known by that name.

Interrogatory No. 26. If you have stated that Francisco Garcia held possession of the Miguel Losoya suerte, then state if you ever knew any one to hold adverse possession to him from your earliest recollection up to 1836 or later.

Interrogatory No. 27. State fully and precisely all you may happen to know concerning the possession, use, and cultivation of the said Miguel Losoya suerte from your earliest recollection and
243 from that time forward.

Interrogatory No. 28. Did you ever happen to know one Concepcion Charlé; and, if so, who was her husband? And state, in this connection, whether she was married more than once.

Interrogatory No. 29. If you have stated that Concepcion Charlé was married more than once, then state who was her second husband.

Interrogatory No. 30. If you have stated that Concepcion Charlé first married Miguel Gotarri, then state, if you know, what children, if any, he had by his wife, Concepcion Charlé, and their names.

Interrogatory No. 31. If you have stated that the second husband of Concepcion Charlé was one Venturo Losoya, then state what children they had, if any, giving their names.

Interrogatory No. 32. If you have stated that Miguel Gotarri had a son by Concepcion Charlé, whose name was also Miguel, then state what acquaintance, if any, you had with this last Miguel, and when and where.

244 Interrogatory No. 33. Is the last named, Miguel Gotarri, living or dead, and if dead, when and where did he die?

Interrogatory No. 34. Who, if any one, did the last named, Miguel Gotarri, marry?

Interrogatory No. 35. Did the last named, Miguel Gotarri, ever go

by the name Miguel Losoya? If so, state, if you know, how this happened.

Interrogatory No. 36. Did the Miguel Losoya suerte, the suerte in controversy in this suit, take its name from Miguel Gotarri, sometimes called Miguel Losoya, or from some other Miguel Losoya?

Interrogatory No. 36½. State, if you know, from what Miguel Losoya, the suerte in controversy in this suit, took its name.

Interrogatory No. 37. State, if you know, from general reputation or otherwise, whatever became of the Miguel Losoya, from whom the suerte in controversy took its name?

245 Interrogatory No. 38. Did Miguel Gotarri, sometimes called Miguel Losoya, son of Concepcion Charlé, or any of the Losoya or Gotarri family, to your knowledge, ever hold and notoriously own the Miguel Losoya suerte? And, if you state they did not, then state why you know it, and how you know it, and what were your opportunities for knowing it.

Interrogatory No. 39. State what you know, if anything, as to any of the family of Miguel Gotarri, sometimes called Miguel Losoya, son of Concepcion Charlé, living upon, cultivating, occupying, or useing any portion of the suerte in controversy after the death of the said Miguel.

Interrogatory No. 40. If you have answered that neither Miguel Gotarri, son of Concepcion Charlé, or any of his family, possessed, cultivated, or occupied the Miguel Losoya suerte, and that it was not held and notoriously owned by them, then state how you know it, why you know it, and state, in this connection, all the facts going to show this to be a fact.

Interrogatory No. 41. Did you know Samuel A. Maverick in his lifetime? State when and where did you know him.

246 Interrogatory No. 42. Did you ever [have] any conversation with said Maverick relative to the suerte of land here in controversy? If yea, state when and where and what was said by the said Maverick concearning the said land.

Interrogatory No. 43. If you have stated in the preceeding interrogatory that you had any conversations with said Maverick relative to said land, then state how such conversations arose, and give the details of the same.

Interrogatory No. 44. In this connection, state if anything was said as to who was the owner of said suerte, and, if the name of the owner was mentioned, give it in your answer.

Interrogatory No. 45. Please state, if you can now remember, anything said in any conversations had by you with the said Maverick going to show the extent of the knowledge, if any, the said Maverick had of the claimant or claimants to the suerte in controversy in 1846, 1847, and 1848, and prior to that time; state the facts, if any, showing said notice in said Maverick.

247 Interrogatory No. 46. State, in this connection, if you happen to know, to what extent, if any, among the population of San Antonio, in the year 1834, 1835, and 1836, the claim or title of Don F. Garcia to the particular suerte now in suit was known—that is to say, about how many persons in said city or or town knew it?

Interrogatory No. 47. If in answer to the foregoing you say the claim of Don Francisco Garcia to this suerte was one of universal or almost universal notoriety and known to almost *to* every adult person then living in San Antonio, state why it was so well known, and please state fully the facts on which you base the statement of the notoriety of said claim.

Interrogatory No. 48. State, if you can, any facts within your knowledge, gathered either from your personal observation or from conversations with the said S. A. Maverick, going to show that the said suerte now in suit was also known in 1837 and 1838 and down to 1847 and 1848, and about that date, to belong to the said Garcia or his heirs; and in this connection state any facts in your knowledge going to show that the said Maverick had notice of said claim or title in 1847, and before that date and subsequent thereto; be full and particular in this respect.

248 Interrogatory No. 49. Please state fully what were your means of knowledge and opportunities to become acquainted with the facts to which you have testified.

Interrogatory No. 50. State fully any other matter or thing, if you have omitted anything that may be beneficial to either the plaintiffs or defendants or that may throw light on the matter in controversy, as if you had been specially interrogated thereto.

BERRY & ROSENHEIMER,
HANCOCK & WEST,
MASON & PASCHAL.
Attorneys for Plaintiffs.

Endorsed: No. 53. Sabariego *et als. vs.* Maverick *et als.* Interrogatories to be propounded to Juan N. Seguin. Filed July 1st, 1882. W. C. Robards, cl'k.

249 Cross-interrogatories to be propounded to Juan N. Seguin by the defendants, as follows, to wit:

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Cross-interrogatories to Juan N. Seguin. Filed July 5th, 1882. W. C. Robards, clerk.

250 *Cross-Int'g. to J. N. Seguin. Filed 5th July*, 1882.

In Circuit Court of the United States for the Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et als.*
vs.
MARY A. MAVERICK *et als.* } No. 53.

Cross-interrogatories to be propounded to JUAN N. SEGUIN, a witness for the plaintiffs:

1st. If you say, in answer to the interrogatories-in-chief, that you are acquainted with the suertes of land which were formerly of the lands of the Mission de Valero, then please state whether the

division of the lands of that mission is not shown by an instrument of writing.

2d. If you say that one of the suertes was known as the Miguel Losoya suerte, then state what was the number of that suerte and how was it bounded and what was the quantity of land contained within its boundaries.

3d. How old were you when you first became acquainted with the Miguel Losoya suerte?

4th. If you say that you knew Miguel Losoya by repu-
251 tation or otherwise, then state whether you ever saw him, and when and where. What do you know of his being in the army of the United States in 1814 and 1815?

5th. If you state that you know of any possession of the Miguel Losoya suerte, then state when you first knew of such possession, giving your own knowledge and not what you may have heard others say. Do you not know that the suerte was always in the possession of and cultivated by the family of Losoya after the latter's death? Was there any interruption of such possession, except for one year about 1835, and was not such possession only interrupted about or at the time of the siege of the Alamo? Did not Miguel Gotarri occupy and cultivate the suerte up to the time he was killed by the Indians? Was he not killed while at work upon this very suerte? Was not said Gotarri also called and known as Losoya?

6th. Were there not several Losoyas related to each other, and was not Miguel Gotarri or Losoya also a relative of the family?

7th. If you say that you knew Captain Don Francisco Garcia, then please answer the following questions as to him as fully as you can.

1st. Was he not an officer in the Spanish army during the
252 time of the Mexican revolution against Spain, and when did he cease to be such officer?

2d. Where was his home after the independence of Mexico was achieved?

3d. When and in what year did he die?

4th. What was his business after he left the Spanish army?

8th. If you say, in answer to the interrogatories-in-chief, that you knew or now know Manuel Sabariego, then as to him answer the following questions fully:

1st. What is his present age?

2d. When did you last see him, and where?

3d. Is he with you in Laredo at the time you make your answers?

4th. Is he present while you are answering, or is he at either Laredo or near Laredo? If not, where is he?

5th. If you say that he (Sabariego) married the daughter of Francisco Garcia, then say where and in what year he married her. When was his wife born, and how old was she when Sabariego married her?

6th. Was not Sabariego an officer in the Mexican army during the Texas revolutionary war and thereafter?

7th. Did he not, together with his wife and his wife's mother,

remove from Texas before the Texas declaration of independ-
253 ence, and go to Mexico, and have they not permanently resided in Mexico since?

8th. Did not Sabariego return to Texas in the capacity of a Mexican officer during the Texas revolution or thereafter; and, if so, when and how many times did he so return?

8½. If you say, in answer to any of the interrogatories-in-chief, that Francisco Garcia ever held possession of the Miguel Losoya suerte of land by or through a tenant, then state the particular time or times when such possession was held by such tenant and how long it continued.

9th. If you say that Garcia performed acts of dominion and ownership over the suerte, then state what such acts were and whether he paid taxes upon the land either to the Republic or State of Texas. You are requested to state your own knowledge, and not what you may have heard others say.

10th. If you speak of Ramon Musquiz, then state also where he died and when, and if he died in Mexico how long had he lived there before his death.

11th. Are not suertes always known by the name of the original owner or grantee?

12th. If you have not already stated the relationship of the different parties named in the interrogatories-in-chief from No. 28 to
35, you will please now state such relationship, giving dates
254 of marriages and deaths, when and where you knew them and each of them; and, if you did not know them all, which of them did you know personally, and how did you derive your information?

13th. Did not Miguel Gotarri, also called Losoya, hold possession of and cultivate the Miguel Losoya suerte as far back as 1821 or 1822, and from that time forward to the day of his death, and did not his wife, Candalaria de la Garza, by tenants, hold and cultivate it after Miguel's death?

14th. If you state any conversations between yourself and Samuel A. Maverick in relation to the above suerte, then please state now when and where you had each of those conversations with said Maverick, who was present at each of them, and be particular as to the time of each of said conversations, and state also whether you communicated any of said conversations to any one or more of the defendants in this case; and, if so, which of them, and when and where.

15th. If you speak of the knowledge of the population of San Antonio as regards the claim of Garcia in 1834, 1835, and 1836, then please state the number of persons having such knowledge; give their names and the name of each of the people having such knowledge.

255 16th. What was the population of San Antonio in the years above mentioned, and what was its population in 1819 or 1820? What changes had taken place in the population between 1819 and 1837?

17th. In all matters about which you may testify, be particular to

give dates, as well as your means of information, and confine yourself to facts within your own knowledge.

18th. When and where were you born?

19th. Did you not leave the State of Texas soon after or about the year 1836? If so, where did you go, and when did you return to Texas?

20th. If you have said that you left the State and returned to it, and having given the time of your return, then state where you lived after your return, and whether you did not live upon a rancho in the country about 30 miles from San Antonio.

21st. Are you now a citizen of Texas or of some other country, and what country?

22d. If you are not now a citizen of Texas, then state when you left the State, and give the place of your present residence and citizenship. How far is your place of residence from the Rio Grande—say, from Laredo?

256 23d. Did you come from your home to Laredo for the purpose of testifying in this case?

24th. Who is present while you are answering the interrogatories and cross-interrogatories, and at what particular house or place are you making your answers?

25th. What were your feelings towards Samuel A. Maverick in his lifetime, and for many years before his death? Were they friendly or otherwise? Answer distinctly whether your feelings towards said Maverick were unfriendly.

WAELDER & UPSON,

Att'ys for the Def'ts, Mary A. Maverick, Sam. Maverick, Wm. H. Maverick, George M. Maverick, Albert Maverick, Edward H. and Mary Terrell, J. H. Kampman, Herman D. and Elizabeth Kampman, Jacob & Ada Waelder, C. M. and Sarah S. Terrell, Ed. Steves, and for Warrantors.

Endorsed: No. 53. P. Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Cross-int'y to Juan N. Seguin. Filed July 5, 1882. W. C. Robards, cl'k, by E. S. Nichols, dep.

256*a* Answer of Juan N. Seguin to direct interrogatories, as follows, viz:

256*b* *Answer of Juan N. Seguin.*

WESTERN DISTRICT OF TEXAS, }
The State of Texas, County of Webb, } *ss:*

In the U. S. Circuit Court for the Western District of Texas, Sitting at San Antonio, on the Law Docket.

SABARIEGO *et als.* }
vs. } No. 53.
MAVERICK *et als.* }

Be it remembered that on the 1st day of September, A. D. 1882, at my office in the city of Laredo, before me, W. H. Maury, clerk of the district court in and for the county of Webb, State of Texas,

within the said western district of Texas, and betwen the usual hours of business, was produced and personally came Juan N. Seguin, a resident citizen of the Republic of Mexico, and temporarily of Webb county, Texas, a witness in behalf of the plaintiffs, to depose and true answers make to the accompanying interrogatories and cross-interrogatories issued out of the circuit court of the United States for the western district of Texas, at San Antonio, on the 2d day of August, A. D. 1882, under the accompanying commission, to depose in a civil cause depending in the circuit court of the United States for the western district of Texas, held at San Antonio, in the said district, on the common law side of the docket of said court, wherein Pilar Garcia de Sabariego and Manuel Sabariego, her husband, are
256c plaintiffs and *and* Mary A. Maverick, Albert Maverick, George M. Maverick, Samuel Maverick, William H. Maverick, Edward H. Terrell and Mary Terrell, his wife; J. H. Kampman, Herman D. Kampman and Elizabeth Kampman, his wife; Bertha Doerr and H. Doeer, her husband; Phillip Immecke, Fritz Steiner, Jacob Waelder and Ada Waelder, his wife; Edward Degener and Mary Degener, his wife; C. M. Terrell and Sarah S. Terrell, his wife; Ed. Steves, E. Dillon, A. Michael and Helen Michael, his wife; J. P. Reed and Mary E. Reed, his wife: Frances E. Vance and J. Milton Vance, as executors of the estate of William Vance, deceased, and individually, and Mary Vance, wife of Milton Vance; C. Upson, executor of the estate of James Vance, deceased; Dr. J. R. Smith, Daniel Oppenheimer, and Louisa Oppenheimer, his wife; Mrs. E. V. Stegall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher; Temple Beth-El "Synagogue," a religious corporation, represented by and under the control of its trustees, Sol. Halff, S. Mayer, Simon Frank, A. B. Frank, and Daniel Oppenheimer; The City of San Antonio, Texas, a municipal corporation, represented by its mayor, James H. French; Trinity Methodist Episcopal Church, a religious corporation, represented by and under the control of its trustees, R. M. Moore, Wesley Ogden, C. M. Terrell,
256d G. W. Brackenridge, George P. Silsby, and M. A. Dougherty, so far as said trustees are known to plaintiffs, the Baptist church, a religious corporation represented by and under the control of its trustees, S. Cayce, E. G. Houston, W. I. Johnson, and James Newton, so far as as said trustees are known to plaintiffs; Miss Annie Sweet, Mrs. C. Sweet, widow of J. R. Sweet, and Mrs. E. A. M. Houston are defendants in an action of trespass to try titles, as well as for damages and rents, and whose testimony is alleged to be material and necessary in said cause in behalf of the plaintiffs, and which said witness, Juan N. Seguin, being of lawful age and sound mind, being by me first carefully examined, cautioned, and duly sworn on his corporal oath to testify the whole truth touching the matters in controversy in said civil cause, *and* says as follows:

The said Juan N. Seguin, witness aforesaid, not being familiar with the English language, being a Mexican, Louis Sanches, Esqr., a resident citizen of Webb county, Texas, and a competant interpreter, was duly sworn as interpreter in this connection.

Answers of J. N. Seguin to Direct & Cross-Interrogatories. Filed 7th Sept., 1882.

Depositions of JUAN N. SEGUIN, a witness produced and duly sworn, as aforesaid, on behalf of plaintiffs:

To direct interrogatory No. 1 he answers: My name is
256e Juan Neponecuno Seguin, and I sign myself Juan N. Seguin; I am 75 years of age.

To direct interrogatory No. 2 he answers: I reside now at Caderect, Juneuses, State of Nueva-Leon, Republic of Mexico; prior to 1835 or 1836 I resided in San Antonio de Bexar, Texas.

To direct interrogatory No. 3 he answers: Resided in San Antonio de Bexar from the year in which I was born—1807—until the year 1842.

To direct interrogatory No. 4 he answers: In the year 1833 I was named mayor of the city of San Antonio and political chief *pro tempore* of the department of Texas. In October, 1835, I was captain of a company of Mexican volunteers who assisted at the memorable battle of San Jacinto, in defense of the independance of Texas, on the 21st April, 1836. In 1837 I was colonel of the first regiment of cavalry of Texas. In 1838 I was elected senator in the Congress of Texas. In 1840 I was elected mayor of the city council of the city of San Antonio. In 1869 I was appointed county judge of Wilson county, Texas, and also a delegate from Wilson & Guada-
256f lupe counties to the convention at Houston for nominating State officials.

To direct interrogatory No. 5 he answers: I know the suertes of lands in the city of San Antonio belonging to the mission of San Antonio de Valero. I know them because they were adjudicated by orders of the Spanish government to the families that came from the town of Adaceis, State of Louisiana. I know them from reading the archives of the city during the time I was mayor and political chief *pro tem.* of Texas, and because I know personally the parties who were the owners of the same, and I conversed with them concerning many matters concerning their lands.

To direct interrogatory No. 6 he answers: I knew those lands since I was 11 years of age.

To direct interrogatory No. 7 he answers: Yes, sir. I knew that there was a suerte with the name "Miguel Losoya suerte."

To direct interrogatory No. 8 he answers: The first time that I knew the suerte named by the name of "Miguel Losoya
256g suerte" was in the year 1818. I knew the suerte of land because the Spanish lieutenant, Francisco Garcia, consulted my father, Don Erasmo Seguin, if he should buy the suerte of land belonging to the rebel Miguel Losoya.

To direct interrogatory No. 9 he answers: It was situated in the fields of mission of San Antonio de Valero, bounded on the north by the land of the Widow Viciente Amador, on the south by the land of Cipriano Losoya, on the east by the wall of the mission of San Antonio de Valero, and on the west by the lands of Don Francisco Callantes and Manuel Jimines.

To direct interrogatory No. 10 he answers: I know the suerte of Cipriano Losoya, and I recollect that this of Cipriano is situated to the south side of the one of Manuel Losoya, and that the one of Cipriano and Miguel were adjoining, and this one of Cipriano was on the bank of the river.

To direct interrogatory No. 11 he answers: I knew Miguel Losoya only by name; never saw him. I do not know whether he is living or dead, and if he is still living he is over 100 years of age.

257 To direct interrogatory No. 12 he answers: I do not know more about Miguel Losoya than I stated in answer to interrogatory preceeding. He disappeared from Texas since the beginning of this century as a rebel or insurgent.

To direct interrogatory No. 13 he answers: In 1820. By the year 1820 the Miguel Losoya suerte was the property of the lieutenant of the regiment "Estramadura," Don Francisco Garcia, who bought it at public auction by order of the Spanish governor, Don Antonio Martines, and kept it in peaceable possession till the year 1834, when he died of an attack of cholera in the Bahia del Esperita Santo, near Goliad, by which death the land belongs to his legimate daughter, Dona Pilar Garcia de Sabariego. The possession of this land by Garcia was publicly and notoriously known by the whole of the city of San Antonio. I knew all this because I lived all that time in the city of San Antonio, and I knew the parties well of whom we are speaking.

258 To direct interrogatory No. 14 he answers: From the year 1824 to the year 1835 the land known as the Miguel Losoya was cultivated by Felipe Musquiz, the brother of Don Ramon, attorney-in-fact of Don Francisco Garcia. I do not remember who culvated it after that time.

To direct interrogatory No. 15 he answers: I knew the captain, Don Francisco Garcia, since the time he was lieutenant of the regiment "Estramadura" in San Antonio de Bexar.

To direct interrogatory No. 16 he answers: I knew that Don Francisco Garcia married with Dona Gertrudes Barrera, of San Antonio, of which marriage they had but one daughter, Dona Pilar Garcia de Sabariego; then Garcia lived in La Bahia del Esperita Santo, Texas.

To direct interrogatory No. 17 he answers: I knew Don Manuel Sabariego, who married Dona Pilar Garcia, the legitimate daughter of Don Francisco Garcia and Dona Gertrudis Barrera, and I knew him at the Bahia del Esperita Santo, Texas.

259 To direct interrogatory No. 18 he answers: Ramon Musquiz, as attorney-in-fact of Don Francisco Garcia, had possession of the suerte of land known as the one of Miguel Losoya, and, as I have said, Felipe Musquez, brother of Don Ramon, cultivated that land by order of Don Ramon from the year 1820 to the year 1834, and I don't know who cultivated it afterwards; conquently Francisco Garcia had possession of that land by means of his attorney-in-fact and rentors.

To direct interrogatory No. 19 he answers: The possession of said land was acquired by sale that was made of the same by the gov-

ernor, Don Antonio Martines, as has already been said, and after the year 1820 to 1834 was cultivated by Felipe Musquez, rentor of Ramon Musquez, attorney-in-fact of Don Francisco Garcia, who publicly and notoriously in all the city of San Antonio de Bexar was the owner.

To direct interrogatory No. 20 he answers: Francisco Garcia started from the city of San Antonio de Bexar to La Bahia del Espireta Santo in the year 1820 or 1821. I do not remember with certainty the date.

To direct interrogatory No. 21 he answers: Since he went
260 to La Bahia Fr. Garcia personally had charge of his property until 1824. He then appointed Don Ramon Musquez his attorney-in-fact of said suerte in San Antonio de Bexar.

To direct interrogatory No. 22 he answers: Ramon Musquez was appointed attorney-in-fact by Don Francisco Garcia, as I have stated in former paragraph.

To direct interrogatory No. 23 he answers: Ramon Musquez, as attorney-in-fact of Francisco Garcia, paid the necessary expenses of the common work of the land known as the Miguel suerte, and collected from his brother Felipe the rent of said land and remitted it to Don Francisco Garcia, as owner of the land. Don Ramond Musquez filled the office of secretary of the governor of Texas, and was political chief of the department of Texas from 1832 to 1834, and is dead.

To direct interrogatory No. 24 he answers: Since the purchase of said land it was known as the one of Don Francisco Garcia.

To direct interrogatory No. 25 he answers: This land did
261 not have a particular name. It was known as the property of Don Francisco Garcia in all the city of San Antonio.

To direct interrogatory No. 26 he answers: From the year 1820 to the year 1834 I am absolutely sure or certain that no person had adverse possession to Don Francisco Garcia to said suerte of land. I heard afterwards that Mr. Maverick bought it and possessed it.

To direct interrogatory No. 27 he answers: I only can repeat what I have said before. I know that said land known as the suerte of Miguel Losoya was possessed, used, and cultivated in the manner above stated for Francisco Garcia, represented by Ramon Musquez, as attorney-in-fact of his brother Felepe, as rentor.

To direct interrogatory No. 28 he answers: I knew Concepcion Charlé; she was married twice; her first husband was named Miguel Gotarri and the second husband Venturo Losoya.

To direct interrogatory No. 29 he answers: Her second husband was Venturo Losoya,

To direct interrogatory No. 30 he answers: By the first
262 marriage I knew only two sons, Eliges and Miguel Gotarri.

To direct interrogatory No. 31 he answers: The children by the marriage of Venturo Losoya and Concepcion Charlé were Felix, Marigenta, Toribio, Juana, and Juan Losoya.

To direct interrogatory No. 32 he answers: I knew well Miguel, son of Miguel Gotarri and Concepcion Charlé, and I baptised or

christened a girl of this same Miguel, having known him since childhood to his death by the Indians in 1843.

To direct interrogatory No. 33 he answers: This Miguel Gotarri, the Indians killed him in the year 1843 at San Antonio de Bexar.

To direct interrogatory No. 34 he answers: He married with Candelaria de la Garza.

To direct interrogatory No. 35 he answers: That Miguel Gotarri never went by any other name than Miguel Gotarri.

263 To direct interrogatory No. 36 he answers: The suerte of land in this suit did not take the name of Miguel Gotari, named Miguel Losoya, as you say, but it did take the name of the same Miguel Losoya to whom the Spanish government in the last century conceded originally that same land, and I have heard that the last-mentioned Miguel Losoya was a brother of Domingo Losoya, whom I knew personally, and this same Domingo told me that the Comanches had killed his brother Miguel in the year 1815.

To direct interrogatory No 36½ he answers: This land took the name of the same Miguel Losoya, to whom the Spanish government conceded the land in the last century.

To direct interrogatory No. 37 he answers: By information that I have that Miguel Losoya disappeared at the beginning of the year 1814 or 1815, being an insurgent, and I knew from his brother Domingo that the Comanches had killed him about the year 1815.

To direct interrogatory No. 38 he answers: Miguel Gotarri has not been named or has not been known as Miguel Losoya, or

264 by any other name but Miguel Gotarri, nor has any of the Gotarri or Losoya families had any right to the suerte known as the Miguel Losoya suerte, and this I know, because I had been all this time in San Antonio, and I knew well the parties that owned that property—the city of Antonio was at that time very small, and every one knew what transpired or occurred in the town—and for reasons of my public employment.

To direct interrogatory No. 39 he answers: Neither Miguel Gotarri, named, as you say, Miguel Losoya, during his life, nor any one of his family after his death, lived, cultivated, occupied, or used any part of the suerte of land now in controversy.

To direct interrogatory No. 40 he answers: Before the year 1819 I do not know what person occupied or possessed that land, but I knew from the year 1819 to the year 1834 that suerte of land was possessed, occupied, cultivated, and used notoriously and publicly by Francisco Garcia, and that I knew of my personal knowledge.

To direct interrogatory No. 41 he answers: Knew him in his lifetime in the city of San Antonio about 1835 or 1836.

265 To direct interrogatory No. 42 he answers: I have had a conversation with said Maverick in regard to the land in this suit. Maverick came to my house in San Antonio de Bexar in 1837 to ask me whether the person who was selling said suerte of land had the right to sell it. I answered him that no one had the right if they were not the heirs of Francisco Garcia, or legal representatives of them, because it was the exclusive property of Francisco Garcia.

To direct interrogatory No. 43 he answers: In the year 1837 I was military commander of the Department of the West, and Maverick was a friend of mine and merited my confidence, and in this way he came to inform himself of me if the sale of the suerte would be good. I told him no, and I advised him that that was the property of Don Francisco Garcia, and only the legitimate heirs of Francisco Garcia could give a legal deed.

To direct interrogatory No. 44 he answers: I told Maverick that the land belonged to Francisco Garcia, and only his heirs would have the right to sell it and give title to the same.

266 To direct interrogatory No. 45 he answers: As I have already stated I informed Maverick that the heirs of Francisco Garcia were the legitimate owner- of the land in question, and Mr. Maverick knew well since the year 1837 that the heirs of Francisco Garcia were the legitimate owner-, because I had told him so, but as Maverick was a speculator in the purchase of lands and properties his ambition did not permit him to take care as to the legality of the purchases that he would make. I know that not only — this property in question, but further that he made other purchases of persons who did not have the right to sell, he knowing it.

To direct interrogatory No. 46 he answers: It was known by all the city of San Antonio in the years 1834, 1835, and 1836 that the suerte of land in question in this suit was the property of Francisco Garcia. At that time the city was small, and anything like this all knew it. I can assure that 300 or 400 competant adults knew it.

To direct interrogatory No. 47 he answers: Francisco Garcia was publicly and notoriously well known in the city of San An-

267 tonio, and that *and that* he had sufficient capacity to obtain legally this *law* in question, and that Ramon Musquiz, his attorney-in-fact, was a man of much honor and great respectability, and that his brother, Felipe Musquiz, obtained that land as rentor of his brother Don Ramon, as attorney-in-fact of Francisco Garcia, it being notoriously and publicly known that Felipe Musquiz cultivated that land from 1820 to 1834, this being well known by any person or adult of the town, and this and my personal knowledge are the reasons for giving this answer.

To direct interrogatory No. 48 he answers: Only one conversation I had with Maverick in regard to said land, as I said in the year 1837, and since that time Mr. Maverick had complete information that the heirs of Francisco Garcia were the legitimate owners. I did not — until after a great many years that Mr. Maverick purchased the suerte of land in question, and I did not think he would buy it after the information I gave him.

To direct interrogatory No. 49 he answers: The opportunities that were presented to me for knowing that the property in question

268 was that of Don Francisco Garcia was because my father, Don Erasmo Seguin, and the adult persons of high reputation in the town informed me of it, and, further, I being mavor of the city, and the meetings that the owners of the labore-s of the mission of Santonio de Valero had to agree in the common works of the lands thereof. Don Ramon Musquiz, and sometimes his

brother, Felipe Musquiz, as representatives of Don Francisco Garcia, would assist at those meetings, and, further, that it was notorious in the town that the land in question belonged to Francisco Garcia.

To direct interrogatory No. 50 he answers: I have no more to say.

JUAN N. SEGUIN.

Louis Sanchez, sworn interpreter.

Sworn to and subscribed before me this 1st day of September, A. D. 1882.

[SEAL.]

W. H. MAURY,
Clerk District Court, Webb County, Texas.

269 *Answer of Juan N. Seguin to Cross-Interrogatories. Filed 5th July*, 1882.

270 To cross-interrogatory No. 1 he answers: I know that there existed a document of the partition of these suertes, but I do not know whether it exist- yet.

To cross-interrogatory No. 2 he answers: I do not know the number of the suerte, but I know that it is bounded on the north by land of the widow of Vicente Amador; on the south with the one of Cipriano Losoya; on the east with the wall of the mission of San Antonio de Velero; on the west with the lands of Don Francisco Collantes and Manuel Jamines. I do not know how much land it contained inside of its limits.

To cross-interrogatory No. 3 he answers: I was of the age of about eleven years.

To cross-interrogatory No. 4 he answers: I never have seen Miguel Losoya; I do not know whether he was in the army of the United States or at the battle of New Orleans.

271 To cross-interrogatory No. 5 he answers: I knew in the year 1820, as the legitimate owner of that land, Don Francisco Garcia. By that time I had sufficient personal knowledge to know who were the owners of lands. I know of my personal knowledge that Francisco Garcia had possession of these lands in the year 1820, and this was the first time that I knew that this was a possession of his. The family of Losoya never possessed nor cultivated that land after the year 1820; I do not know at what place the indians killed Miguel Gotarri; Miguel Gotarri was never named or known by the name of Miguel Losoya.

To cross-interrogatory No. 6 he answers: I have known several Losoyas, and I know that the mother of Miguel Gotarri had as a second husband one Venturo Losoya.

To cross-interrogatory No. 7 he answers: I knew Captain Don Francisco Garcia from the year 1818 to the year 1821, as a lieutenant in the regiment of Estramaduro in the Spanish army. After the year 1821 he lived at La Bahia del Esperita Santo, Texas, where he died in the year 1834; after being an officer he was a merchant.

272 To cross-interrogatory No. 8 he answers: Manuel Sabariego is of an advanced age, but I do not know precisely his age;

he may be more or less of my age. I saw him the last time at the city of San Luis Potosi, in Mexico, in the year 1863, and since that I have not seen him, and consequently he is not now present with me *now* while I am giving my depositions. He not being in either of the two Laredos, and not being in San Luis Potosi, I do not know where he is. Manuel Sabariego married at La Bahia Esperita Santo in the year 1833. I do not remember certainly where Pilar Garcia, wife of Manuel Sabariego, was born, if in San Antonio or at the La Bahia del Esperita Santo; neither do I remember at what age she married. I know that she was very young. Sabariego was an officer in the Mexican army before, during, and after the revolutionary war of Texas. Sabariego, his wife, and his mother-in-law went from Texas to Mexico before the declaration of the independence of Texas, and have resided there since that time. I do not know whether Sabariego returned or not.

273 To cross-interrogatory No. 8 he answers: From my personal knowledge, from 1824 to 1834.

To cross-interrogatory No. 9 he answers: I do not know whether he has paid taxes or not.

To cross-interrogatory No. 10 he answers: Ramon Musquiz started in the year 1836 from Bexar and did not return any more to live in Texas, and died at Mondova, Mexico, but I do not remember the year in which he died.

To cross-interrogatory No. 11 he answers: The suertes are generally known by the names of the original owners.

To cross-interrogatory No. 12 he answers: I, for an answer, refer to my declaration given in reply to interrogatories from No. 28 to 35.

To cross-interrogatory No. 13 he answers: I say positively, no.

274 To cross-interrogatory No. 14 he answers: I had only one conversation with Maverick in regard to this land; that was in the year 1837, in my house in San Antonio, and, not knowing who besides the Mavericks are the defendants in this suit, I do not know whether I have communicated with any one of them or not. When I spoke with Maverick there was no one present.

To cross-interrogatory No. 15 he answers: As I have said before, there were from 300 to 400 adult persons — constituted the town; among them are Augustin Barrera, José Flores, Manuel Gil, Dorotio Gil, Juan José Flores, Francisco Ruiz, Antonio Menchaca, Neponuceno Flores, José Ma. Flores, Juan A. Tombana, Pedro Flores, Juan Gomez, Ambrasio Rodriguez, Lewis Gomez, Erasmo Seguin, and a great many others that are dead and buried in the cemetery and whose names I could give if I had sufficient time to recollect their names.

To cross-interrogatory No. 16 he answers: In the year 1834, 1835, and 1836 the population of San Antonio was from 2,500 to 3,000 souls, and the populaton in the year 1819 and 1820 *were* about the same. I think that the population was greater in the year 1837.

275 To cross-interrogatory No. 17 he answers: I will comply with that.

To cross-interrogatory No. 18 he answers: I was born in San Antonio de Bexar, Texas, on the 28th of October, in the year 1807.

To cross-interrogatory No. 19 he answers: I did not leave Texas until the year 1842 for Mexico. I returned in the year 1848 to Texas.

To cross-interrogatory No. 20 he answers: After my return I lived in Wilson county up to the year 1870.

To cross-interrogatory No. 21 he answers: I left Texas on the 1st day of January, 1870. I now reside in Cadareita Jimenes, State of Nueve Leon, on the Rio Grande about 70 leagues —.

To cross-interrogatory No. 23 he answers: I came on my own business to Lampasas, and there I was requested to come here and give my declarations.

To cross-interrogatory No. 24 he answers: In the clerk's
276 office in *in* the court-house in Laredo, in the presence of W, H. Maury, clerk of the district cour of Webb county, and Louis Sanchez. interpreter.

To cross-interrogatory No. 25 he answers: Maverick, since the time I knew him in the year 1836, was my particular friend, and never during his life was there a reason to break our friendship.

JUAN N. SEGUIN.

LUIS SANCHEZ,
Sworn Interpreter.

Sworn to and subscribed before me this 1st day of September, A. D. 1882.

W. H. MAURY,
Clk Dist. Court, Webb Co., Texas.

THE STATE OF TEXAS, *County of Webb:*

I, W. H. Maury, clerk of the district court within and for the county of Webb and State of Texas, do hereby certify that at the time and place aforesaid, Juan N. Seguin, a witness on behalf of the plaintiffs in the above-entitled cause, was by me duly sworn, before any questions were put to him, to tell the truth, the whole truth and nothing but the truth relative to said cause, and the answers
277 of said witness to the accompanying direct interrogatories and cross-interrogatories were taken down in writing by me, and the depositions as above set forth was carefully read over to, signed, and sworn to by him before me at the time and place aforesaid.

And I further certify that Louis Sanchez, Esqr., was by me selected and duly sworn to true interpretation make of the direct interrogatories and cross-interrogatories propounded to the above-named witness and of his answers thereto, and that the said Luis Sanchez was duly sworn as aforesaid before any questions were propounded to said witness; and I hereby certify that the said Luis Sanchez is a person duly skilled and qualified in the English and Spanish languages to make such interpretation.

I further certify that I am neither of counsel or attorney in said cause, nor am I of interest in the same, nor am I a party to the same.

Given under my hand and seal of office, in the city of Laredo, Webb Co., Texas, this 2d day of September, A. D. 1882.

[SEAL.] W. H. MAURY,
Clerk District Court, Webb Co., Texas.

278 Direct interrogatories to Juan José Flores, Mrs. Ursula Gortarri de Arsienaga, Lewis Gomez, and Juan Rodrigues, propounded by the plaintiffs in case [of] Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.*, No. 53, and filed July 3, 1882.

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Filed July 3, 1882. W. C. Robards, clerk.

279 *Direct Interrogatories to Juan Jose Flores, Mrs. Ursula Gortarri de Arceeniego, Louis Gomez, Juan Rodriguez.*

In the Circuit Court of the United States for the Western District of Texas, Sitting at San Antonio, on the Law Side of the Docket.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.* } No. 53.

To Mary A. Maverick, Albert Maverick, Geo. M. Maverick, Samuel Maverick, William H. Maverick, Edward H. Terrell, and Mary Terrell, his wife; J. H. Kampman, Herman D. Kampman, and Elizabeth, his wife; Bertha Doer and H. A. Doer, her husband; Phillip Immeicke and Fritz Steiner, Jacob Waelder and Ada Waelder, his wife; Edward Degenef and Mary, his wife; C. A. Terrell and Sarah S., his wife; Ed. Steves, E. Dillon, A. Michel and Helen Michel, his wife; J. P. Reed and Mary E. Reed, his wife; Francis E. Vance and J. Milton Vance, as executors of the estate of William Vance, deceased, and individually, and Mary Vance, wife of J. Milton Vance; C. Upson, executor of the estate of James Vance, deceased; Dr. J. R. Smith, Daniel Oppenheimer, and Louisa Oppenheimer, his wife; Mrs. E. V. Stegall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher; Temple Beth-El Synagogue, a religious corporation, represented by and under the control of its trustees, Sol. Halff, Simon Frank,
280 A. B. Frank and Dan. Oppenheimer, The City of San Antonio, Texas, a municipal corporation, represented by its mayor, James H. French; Trinity Methodist Episcopal Church, a religious corporation, represented by and under the control of its trustees, R. M. Moore, Wesley Ogden, C. M. Terrell, G. W. Brockinridge, George B. Silsby, and M. A. Dougherty, so far as said trustees are known to plaintiffs; The Baptist Church, a religious corporation, represented by and under the control of its trustees, S. Coyce, E. G. Hooston, W. D. Johnson, and James Newton, so far as said trustees are known to plaintiffs; Miss Annie Sweet and Mrs. C. Sweet, widow of J. R. Sweet, Mrs. E. A. M. Hooston, or their att'ys of record; Waelder and Upson, Shook and Dittmar, A. W. Houston, Ogden & Ogden, Devine and Cowie, Eckfor and Newton:

You will please take notice that five days after the service of this

notice and a copy of the subjoined interrogatories the plaintiffs in the above-entitled cause will apply to the clerk of the circuit court of the United States for the western district of Texas, at San
281 Antonio, for a commission to take the depositions of Juan Jose Flores, Louis Gomez, Mrs. Ursula Gortarri de Arcienaga, and Juan Rodrigues, all of whom reside in the county of Bexar, in the State of Texas, and who are aged and infirm and will by reason thereof probably be unable to attend the court in answer to the subjoined interrogatories; which depositions, when so taken, are to be read in evidence by the plaintiffs on the trial of this cause.

MASON AND PASCHAL,
Att'ys for Plaintiffs.

Interrogatories to be propounded to Juan Jose Flores, a resident of Bexar county, Texas, who is aged and infirm.

Interrogatory No. 1. What is your name, where do you live, and where were you born?

Interrogatory No. 2. Where have you always resided?

Interrogatory No. 3. Are you acquainted with the suertes of land in the city of San Antonio, Texas, lying west and northwest of
282 the Alamo plaza, and which were formerly of the lands of the Mission de Valero? If yea, how, from whom, and by what means did you obtain this information?

Interrogatory No. 4. If you say you know these lands, then please state how far back your recollection of the same extends and how old were you when you first knew them.

Interrogatory 5. If you have answered that you know said suerte of lands, then please state if you ever knew among said suertes a suerte called or known as the "Miguel Losoya suerte."

Interrogatory No. 6. If you state that you knew such a suerte, then state when you first became acquainted with it.

Interrogatory No. 7. If you have stated that you knew the "Miguel Losoya suerte," then state how it was situated and by what lands it was bounded and when you first knew it.

Interrogatory No. 8. Do you know who, if any one, held possession of the said Miguel Losoya suerte in the year 1820 and from that time forward? If you do, state who was in such pos-
283 session and how you know this fact.

Interrogatory No. 9. If, in answer to the preceding interrogatories, you say that the said Miguel Losoya suerte was cultivated at any time from 1820 to 1836 or later, then please state by whom it was cultivated, for whom, and at what time.

Interrogatory No. 10. Please state who, if any one, cultivated the said suerte in 1835.

Interrogatory No. 11. If you have stated, in answer to the last preceding interrogatory, that you cultivated the same suerte in 1835, then state fully and particularly whether you cultivated the same as the owner of it or as a tenant of some one else.

Interrogatory No. 12. If, in answer to the last preceding interrogatory, you say that you cultivated the said suerte as a tenant, then state fully from whom you rented the same.

Interrogatory No. 13. If, in answer to the last preceding interrogatory, you say you rented the said suerte from Ramon Musquis, then state who Ramon Masquis was and whether he is now living
284 or dead, and state, further, when he rented the same to you whether he did so as the owner of the same or as the agent of some one else.

Interrogatory No. 14. If, in answer to the last preceding interrogatory, you say that Musquis rented you the said suerte as the agent of some one else, then state whether he disclosed to you the name of the person for whom he was acting as agent; and, if he did, then state who the person or persons were for whom he was acting as such agent.

Interrogatory No. 15. State, if you know, by what name the said suerte was known at the time you cultivated the same.

Interrogatory No. 16. State what rent, if any, you paid for the said suerte and to whom you paid it and in what was it paid.

Interrogatory No. 17. Who, if any one, assisted you in the cultivation of said suerte?

Interrogatory No. 18. If you have stated, in answer to the last interrogatory, that some other person assisted you in cultivating said suerte and you have given his name, then state if that person is living or dead; and, if living, where does he now reside?
285 Interrogatory No. 19. What improvements, if any, were upon said suerte at the time you cultivated the same and from your earliest recollection of said suerte?

Interrogatory No. 20. State fully and precisely all you may happen to know concerning the possession, use, and cultivation of the said "Miguel Losoya suerte" from your earliest recollection and from that time forward?

Interrogatory No. 21. Did you ever happen to know one Concepcion Charle; and, if so, who was her husband? And state in *the* connection whether she was married more than once.

Interrogatory No. 22. If you have stated that Concepcion Charle was married more than once, then state who was her second husband.

Interrogatory No. 23. If you have stated that Concepcion Charles first married Miguel Gortarri then state, if you know, what children, if any, he had by his wife, Concepcion Charle, and their names.

Interrogatory No. 24. If you have stated that the second husband of Concepcion Charle was one Venturo Losoya then state what children they had, if any, giving their names.
286 Interrogatory No. 25. If you have stated that Miguel Gortarri had a son by Concepcion Charle whose name was also Miguel then state what acquaintance, if any, you had with this last Miguel, and when and where.

Interrogatory No. 26. Is the last-named Miguel Gortarri living or dead; and, if dead, where did he die?

Interrogatory No. 27. Who, if any one, did the last-named Miguel Gortarri marry?

Interrogatory No. 28. Did the last-named Miguel Gortarri ever go

by the name of Miguel Losoya? If so, state, if you know, how this happened.

Interrogatory No. 29. Did Miguel Gortarri, sometimes called Miguel Losoya, son of Concepcion Charle, or any of the Losoya or Gortarri family, to your knowledge, ever hold and notoriously own the Miguel Losoya suerte; and, if you state that they did not, then state why you know it, how you know it, and what were your opportunities for knowing.

Interrogatory No. 30. State what you know, if anything, as
287 to any of the family of Miguel Gortarri, sometimes called Miguel Losoya, son of Concepcion Charlé, living upon, cultivating, occupying, or using any portion of the suerte in controversy after the death of the said Miguel.

Interrogatory No. 31. If you have answered that neither Miguel Gortarri, son of Conception Charlé, or any of his family, possessed, cultivated, or occupied the Miguel Losoya suerte, and that it was not held and notoriously owned by them, then state how you know it, why you know it, and state in this connection all the facts going to show this to be a fact.

Interrogatory No. 32. Was or was not Miguel Gotarri, who was sometimes called Miguel Losoyo, a son of Concepcion Charle, cultivating a suerte in San Antonio at the time of his death? If yea, state, if you happen to know, what suerte he was then cultivating, and give the situation of it, as near as you can, with reference to the Miguel Losoya suerte.

Interrogatory No. 33. Did or did not the said Miguel Gortarri, son of Concepcion Charle, and his family, to your knowledge,
288 ever leave San Antonio; and, if yea, what year did they leave and where did they go? And if you say they left, then state fully why you know it, how you know it, and what were your means of knowing.

Interrogatory No. 34. If, in answer to the last preceding interrogatory, you have stated that the said Miguel Gortarri and his family left San Antonio, then state if you know in what year the said Miguel returned, if at all, and why and how you know it.

Interrogatory No. 35. State, if you know, when the family of the said Miguel Gortarri returned to San Antonio, if at all, and whether they came back with the said Miguel.

Interrogatory No. 36. State, if you happen to know, where the family of the said Miguel Gotarri was at the time of his death.

Interrogatory No. 37. If, in answer to the last preceding interrogatory, you have stated that the family of the said Miguel Gortarri were not in San Antonio at the time of his death, then state if you know where they then were and how long after the death of
289 the said Miguel before they returned to San Antonio, if at all?

Interrogatory No. 38. Did you ever know one Captain Don Francisco Garcia? If yea, where did you know him?

Interrogatory No. 39. If you state that you knew Captain Don Francisco Garcia then state if he had any children; and, if so, how many and what were they named, and where did he then reside.

Interrogatory No. 40. Were you ever acquainted with one Manuel Sabariego? If yea, who did he marry, if any one, and give the name of his wife's father and mother, and where did you know him?

Interrogatory No. 41. If, in answer to interrogatories Nos. 8 & 9, you say that Francisco Garcia held possession of the Miguel Losoya suerte, at any time from 1820 to 1836 or later, then state fully how he held such possession, whether in person or by tenant.

Interrogatory No. 42. State all you may know, if anything, relative to the possession of said suerte by the said Francisco
290 Garcia, and how he came into possession of the same, if at all, and what acts of dominion and ownership he performed, if any, and when and to what time?

Interrogatory No. 43. When, if ever, did the said Francisco Garcia leave San Antonio de Bexar, and where did he go to reside, if anywhere?

Interrogatory No. 44. State, if you happen to know, to what extent, if any, among the population of San Antonio, in the years 1834, 1835, & 1836, the claim or title of Don Francisco Garcia to the particular suerte now in suit was known—that is to say, about how many persons in said city or town knew it.

Interrogatory No. 45. If, in answer to the foregoing, you say the claim of Don Francisco Garcia to this suerte was one of universal, or almost universal, notoriety, and known to almost every adult person then living in San Antonio, then state why it was so well known, and please state fully the facts on which you base the statement of the notoriety of said claim.

Interrogatory No. 46. Please state fully what were your means of knowledge and opportunities to become acquainted with the facts to which you have testified.

291 Interrogatory No. 47. State, if you happen to know, anything which you can now remember that will be of benefit to either party in this suit, or will serve to throw light on the matter in controversy, if by accident you have heretofore omitted the same.

Interrogatories to be propounded to Mrs. Ursula Gortarri de Arcieniega, a citizen of Bexar county, Texas, who is aged and infirm, witness for plaintiffs.

Interrogatory No. 1. What is your name, where do you now reside, where were you born, and what is your age?

Interrogatory No. 2. What *was* the name of your father & mother?

Interrogatory No. 3. Are your father and mother living or dead; if dead, when did they die, and where?

Interrogatory No. 4. Who were your grandmother and your grandfather on your father's side?

Interrogatory No. 5. If you say that your grandmother was Concepcion Charlé and your grandfather Miguel Gortarri, then give the names of the children, if any, by this marriage.

292 Interrogatory No. 6. Was your grandmother, Concepcion

Charlé, married more than once; if so, what was the name of her other, or second husband?

Interrogatory No. 7. If you say her second marriage was with Venturo Losoya, then give the names of the children, if any, by this marriage.

Interrogatory No. 8. Are they living or dead? And if any are living, state where they now reside, and where they are.

Interrogatory No. 9. What other name, if any, was your father sometimes called, than by that of Miguel Gortarri?

Interrogatory No. 10. If you have stated that your father, Miguel Gortarri, was sometimes called Miguel Losoya, then state fully why he was thus called, and also state by which name he was best and generally known.

Interrogatory No. 11. Where were your father and your mother married?

Interrogatory No. 12. Give the names of the children of your father and mother.

Interrogatory No. 13. Where did your father and mother reside when they lived in San Antonio? Describe the place as near as you can.

293 Interrogatory No. 14. Where were your mother, yourself, and all your father's family at the time of your father's death?

Interrogatory No. 15. If, in answer to the last preceding interrogatory, you say that your mother, yourself, and all of your father's family were in Mexico at the time of his death, then state when they went to Mexico and when did they return.

Interrogatory No. 16. Do you know anything about a suerte of land formerly known as the Miguel Losoya suerte, and to which a deed was made by your mother to S. A. Maverick in 1847 or 1848?

Interrogatory No. 17. If, in answer to the last preceding interrogatory, you have stated that you know such a suerte, or that your mother made a deed to such a suerte to S. A. Maverick, then state fully all that you may know relative to such sale and everything that was said or done both by your mother and S. A. Maverick relative to said suerte or said sale.

Interrogatory No. 18. How old were you at the time of your father's death?

294 Interrogatory No. 19. Did any of your father's family, after his death, continue to possess or cultivate any suerte of lands in San Antonio?

Interrogatories to be propounded to Louis Gomez, a citizen of Bexar county, Texas, who is aged and infirm.

Interrogatory No. 1. When and where were you born, and where have you always lived, and where do you now live?

Interrogatory No. 2. Did you ever know Captain Don Francisco Garcia? If so, when and where?

Interrogatory No. 3. Did you ever know the said Francisco Garcia to own a suerte of land in San Antonio? If so, state as near as you can now remember how said suerte was situated.

Interrogatory No. 4. Did you ever know one Ramon Musquiz. If so, when and where, and is he living or dead?

Interrogatory No. 5. If you have answered that you know Ramon Musquiz, then state fully what acquaintance you had with him, if any, and state fully all that you ever knew about him.

Interrogatory No. 6. State, if you happen to know, if Cap-
295 tain Don Francisco Garcia had an agent in San Antonio; and, if you say he had, then state who he was, and state fully all you may know on this subject and how you know it.

Interrogatory No. 7. Do you know one Juan Jose Flores; and, if so, did you know him in 1835?

Interrogatory No. 8. If, in answer to the last preceeding interrogatory, you have stated that you knew one Juan Jose Flores in 1835, then state what occupation he followed in that year, if any—what did he do?

Interrogatory No. 9. If you have stated that Juan Jose Flores cultvated a suerte of land in 1835, then state what suerte he cultivated and whether he was the owner of the same.

Interrogatory No. 10. If you have stated that Juan Jose Flores cultivated a suerte of land in San Antonio in 1835, and that he was not the owner of the same, then state fully who was the owner of the suerte he cultivated in that year, and how you know it and why you know it.

Interrogatories to be propounded to Juan Rodriguez, a citizen of Bexar county, who is aged and infirm.

296 Interrogatory No. 1. What is your name, and when and where were you born, and where have you always lived?

Interrogatory No. 2. Where did you live in 1835, and how old were you then?

Interrogatory No. 3. What did you do in 1835, if anything, in the way of work, and if anything with whom did you work in that year and for whom? State fully.

Interrogatory No. 4. If, in answer to the last preceeding interrogatory, you have stated that you worked in a field or suerte of land, then state in what field or suerte of land and where said suerte was situated, and how and who was the owner of said suerte and how you know it.

Interrogatory No. 5. If you have stated that in 1835 you worked in [a] suerte with one Juan Jose Flores, then state all you may happen to know relative to the suerte cultivated by said Flores in said year, and state, if you know, how said Flores happened to cultivate the same.

MASON AND PASCHAL,
Attorneys for Plaintiffs.

Filed July 3d, 1882.

297 Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et als.* Filed July 3, 1882. W. C. Robards, cl'k.

298 Cross-interrogatories propounded by the defendants in case Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* to Juan Jose Flores, Lewis Gomez, Juan Rodrigues, and Ursula Gortarri de Arsienego.

Endorsed: No. 53. P. Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Cross-interrogatories to Juan José Flores, Lewis Gomez, Juan Rodrigues, and Ursula Gortarri de Arsienago. Filed July 5, 1882. W. C. Robards, clerk, by E. S. Niccolls, deputy.

299 *Cross-Interrogatories to Juan Jose Flores, Louis Gomez, Juan Rodriguez, and Ursula Gortari de Arceniego.*

In Circuit Court of the United States for the Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.* *vs.* MARY A. MAVERICK *et als.* } No. 53.

Cross-interrogatories to be propounded to Juan Jose Flores, a witness for the plaintiffs.

1. Unless you have already done so in answer to the interrogatories-in-chief, you will now please describe the "Miguel Losoya suerte," giving its boundaries, if you know them, the quantity of land contained within its boundaries, and all that you may know of its location, together with your means for information.

2. If you speak of its possession at any time after [the] year 1820, and if you know who held possession of it and cultivated it, then state now how long each possession continued in case there were different occupants at different times.

3. Did not Miguel Gortarri, who was also known by the name of Miguel Losoya, occupy and cultivate the said suerte from about the year 1820 to the year 1835?

4. If in the year 1835 Miguel left the suerte, was it not in
300 consequence of the political troubles then agitating the country, or on account of Indian troubles which occurred in that year?

5. Did not Miguel again go to and cultivate the suerte in 1836, or soon thereafter?

6. Did not Miguel Gortarri, called also Losoya, or some of his family, and some of the Losoya family, always hold possession of and cultivate the suerte, except during the one year above mentioned?

7. Was not Miguel Gortarri killed by Indians while engaged in the cultivation of the suerte, and upon the very land of the suerte?

8. Do you know the exact time at which Miguel was killed by the Indians? If so, please state it.

9. If you say that you cultivated the suerte in 1835, then state who succeeded you in its cultivation, and who was in possession of it before you.

10. If you say that Ramon Musquiz rented the suerte to you for

one year, as the agent of some other person, then state whether you know of your own knowledge that he was such agent, or
301 whether you only know what Musquiz told you.

11. Has not the suerte been always known as the Miguel Losoya suerte?

12. Was not the said suerte always cultivated in those days in the same manner in which all like suertes were cultivated?

13. Was not this suerte divided by a ditch or cordador from the suerte of Cipriano Losoya? If yes, please describe the course of said ditch or cordador. Did it not run in a northwesterly direction?

14. Do you not know that the family of Miguel Losoya, or some of them, always cultivated the said suerte, and that Miguel Gortarri, also called Miguel Losoya, was one of the Losoya family, or a relation or connection of that family?

15. If you answer to the 33d interrogatory-in-chief that Miguel Gortarri, also called Losoya, left San Antonio at any time, then please state now whether that was not in 1835, and did not he return the next year.

16. Did not the family of Miguel live in a house or jocal
302 adjacent to the suerte, and at the same locality where other owners of the different suertes lived, and did not his family live there at the time of his death, when he was killed in the field of the suerte by the Indians?

17. Did not the family of Miguel cultivate the suerte after his death?

18. Did Captain Don Francisco Garcia ever reside permanently at San Antonio; if so, when did he leave?

19. Was not Captain Garcia an officer of the Spanish army in 1819, and was he not stationed at San Antonio or present with the Spanish soldiers at that time?

20. Was not Garcia an officer in the command of General Onedondo; and, if so, when and how long?

21. If, in answer to the interrogatories-in-chief, you shall have stated that Francisco Garcia exercised acts of dominion over the Miguel Losoya sureties, then please state now what particular acts he did and where each of them were performed, and state also whether to your knowledge he has ever paid any tax or taxes upon the said suerte, either during the days of the Republic of Texas or since or before.

303 22. Do you know the number of the Miguel Losoya suerte? If so, please give its number.

23. Did you ever know the Miguel Losoya to whom the suerte in question was originally granted? Do you know when and where he died?

24. What, if anything, do you know of said Miguel Losoya, last mentioned, belonging to or joining the United States army, and what do you know of his being in the battle of New Orleans in 1815?

25. Was or was not the said Miguel Losoya killed in that battle? State, if you know.

26. Were not the Losoyas who afterwards possessed and cultivated the suerte the descendants and relatives of the Miguel Losoya to whom the suerte was originally granted, and was not the Miguel Losoya also called Miguel Gortarri, a relative and connection?

27. Please state, if you know, when Francisco Garcia died, and where did he live after he left San Antonio in 1819 or 1820?

28. If you say, in answer to the 40th interrogatory-in-chief, that you knew Manuel Sabariego, and that he married the daughter
304 of Francisco Garcia, then state now when you first knew said Sarbariego and where. What was his business or occupation when you first knew him?

29. If you say, in answer to the last preceding question, that Manuel Sabariego was an officer of the Mexican army, then state whether he was such officer during the Texas revolution and afterwards.

30. Did said Sabariego at any time remove from Texas; and, if so, where did he go and who went with him?

31. Did he, after his removal from Texas, ever return to the Republic or State? If so, when, how, in what capacity—whether as a civilian or soldier?

32. When was said Sabariego married to his wife? State the year and month of the year, if you know.

33. Where are you answering the interrogatories-in-chief and these cross-interrogatories, and who is present while you are giving your answers?

305 Cross-interrogatories to be propounded to Mrs. Ursula Gortari de Arceniega, a witness for plaintiffs.

1. If you say that your father was sometimes called Miguel Losoya and sometimes called Miguel Gortari then state now whether he was not so called by the name of Losoya by reason of his relationship to the Losoya family.

2. If you have given the names of the children of your father and mother, then state now whether their children are living or dead and whether you are the only survivor.

3. State, if you please, what was the relationship between the Losoya and Gartari families. Had the two families intermarried with each other?

4. If you have stated, in answer to the 13th direct interrogatory, where your father and mother lived in San Antonio then state further now, what land your father cultivated, and where it was situated with reference to the house in which they lived? In what direction did your father go from the house to get to his field?

5. If you know what suerte it was that your father culti-
306 vated, then please state that fact, and state whether it was or was not the suerte known as the Miguel Losoya suerte.

6. If you say, in answer to the interrogatories-in-chief, that your father is dead and that he was killed by the Indians, then please state now whether he was killed in the field which he had been cultivating before his death.

7. How long had your father cultivated the field or suerte before

his death, and was it not the same suerte which your mother afterwards sold to Samuel A Maverick?

8. Where were you born, and how far back can you remember your father's cultivating the field in which he was killed and which your mother afterwards sold to Mr. Maverick?

9. If, in answer to the last preceeding question, you have said that from your earliest recollection your father cultivated the suerte in question, then state further whether there — interruption of such cultivation or whether he continued to cultivate the same land to the time of his death.

10. Did your father claim the land he cultivated as his own or your mother's, or both, or how?

307 11. Did you know or ever hear of one Francisco Garcia during the time your father cultivated the said suerte, or did you hear at that time of any claim of Francisco Garcia to said suerte?

12. If you say anything of what passed between your mother and Mr. Maverick at the time of the sale and purchase of the suerte aforesaid, then state who was present at their conversation. Was there more than one conversation, and do you remember distinctly all that was said by them or either of them? Have you mentioned these conversations to any one heretofore; if so, to whom and where?

13. Did not your mother or some person for her cultivate the suerte after your father's death and how long?

14. Did you go to Mexico; and, if so, when? Did your mother go with you or did she stay with your father, and when did you return to Texas? Did you go for the purpose of remaining away or was your absence only temporary?

308 15. State as fully as you can rem-ber all that has been asked you, and particularly all that you now remember, of the cultivation of the Miguel Lasoyo suerte by your father and his tenants or assistants, and by your mother, after your father's death.

Cross-interrogatories to be propounded to Louis Gomez, a witness for the plaintiffs.

1. If you have already stated when and where you were born you will now also state what is your occupation now and what has been your occupation through life.

2. How far back can you remember and how old were you in 1820?

3. If you have said, in answer to the interrogatories-in-chief that you knew Captain Don Francisco Garcia, then state whether said Garcia was an officer in the Spanish army. How long did you know him and where did you first see him?

4. Is it not true that Captain Garcia came to San Antonio with the Spanish army, and that he left with the army?

5. Is it not also true that Captain Garcia never lived in San Antonio as a citizen of the place?

309 6. If you have said, in answer to the third interrogatory-in-chief, that you knew Captain Garcia to own a suerte of land

in San Antonio then state now how you know and where you first heard of it and from whom.

7. If you have said that Captain Don Francisco Garcia had an agent in San Antonio then you will also state how you know that fact, by whom and when was it told you, and when did he have such agent; give the year when you first heard of it.

8. If you have said that Juan Jose Flores cultivated a suerte of land in 1835 you will then say how long he cultivated it. Was it three, six, or nine months?

9. Did not Miguel Gortari, who was also called Miguel Losoya, cultivated the same suerte both before and after Juan Jose Flores cultivated it?

Cross-interrogatories to be propounded to Juan Rodriguez as witness for plaintiffs.

1. If you say in answer to the interrogatories-in-chief that
310 in 1835 you worked in a suerte or field with Juan Jose Flores then state how long Flores and yourself worked in that field, when you commenced, and when you quit.

2. Was it not the same field or suerte which Miguel Gortari, who was also known as Miguel Losoya, cultivated both before and after you and Flores worked in it?

WAELDER AND UPSON,

Att'ys for Def'ts Mary A. Maverick, Sam. Maverick, Wm. H. Maverick, Geo. M. Maverick, Albert Maverick, Edward H. and Mary Terrell, J. H. Kampman, Herman D. and Elizabeth Kampman, Jacob and Ada Waelder, C. M. and Sarah S. Terrell, Ed. Steves, and for the Warrantors.

311 Endorsed: No. 53. P. Garcia de Sabariego *et al. vs.* Mary A. Maverick *et als.* Cross-interrogatories to Juan Jose Flores, Louis Gomez, Juan Rodriguez, Ursula Gortari de Arceniego. Filed July 5th, 1882. W. C. Robards, clerk, per E. S. Niccolls, deputy.

312 Answers of Juan José Flores to direct interrogatories propounded to him in case [of] Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.*, No. 53. Filed Sep. 19, 1882, in the circuit court of the United States at San Antonio, western district of Texas.

313 *Answers of Juan José Flores, Louis Gomez, Juan Rodrigus, and Mrs. de Arcienega to Direct & Cross Int'g.*

THE STATE OF TEXAS, *Western District of Texas, County of Bexar:*

In the Circuit Court of the United States for the Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et als.*
vs.
MARY A. MAVERICK *et als.* } No. 53.

Suit pending in said court.

Be it remembered that at the times hereinafter set forth, before

me, Edward Miles, a duly appointed, qualified, and commissioned notary public under the laws of the State of Texas in and for Bexar county, Texas, at my office in Bexar county, Texas, within the said western district of Texas, and between the usual hours of business, were produced and personally came, respectively, Juan José Flores, Louis Gomez, Juan Rodrigues, and Mrs. Ursula Gortarri de Arcienego, witnesses in behalf of the plaintiffs, to depose and true answers make to the accompanying interrogatories and cross-interrogatories issued out of the circuit court of the United States for the western district of Texas, at San Antonio, Texas, on the 3d day of August, A. D. 1882, under the accompanying commission to depose in a civil suit depending in the circuit court of the United States for the
314 western district of Texas, sitting at San Antonio, in said district, on the common law side of said court, wherein Pilar Garcia de Sabariego and Manuel Sabariego, her husband, are plaintiffs, and Mary A. Maverick, George M. Maverick, Samuel Maverick, William H. Maverick, Edwin H. Terrell, and Mary M. Terrell, his wife; J. H. Kampman, Herman D. Kampman, and Elizabeth, his wife; Bertha Doeer and H. A. Doeer, her husband; Philip Immecke, and Fritz Steiner, Jacob Waelder and Ada Waelder, his wife; Edward Degener and his wife, Mary; C. M. Terrell and Sarah S. Terrell, his wife; Ed. Steves, E. Dillon, A. Michal, and Helen Michael, his wife; J. P. Reed and Mary E. Reed, his wife; Francis E. Vance and J. Milton Vance, as executors of the estate of William Vance, deceased, and individually, and Mary Vance, wife of J. Milton Vance; C. Opson, executor of the estate of James Vance, deceased; Dr. J. R. Smith, Daniel Oppenheimer and Lou-sa Oppenheimer, his wife; Mrs. E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher, Temple Beth- El "Synagogue," a religious corporation represented by and under the controll of its trustees, Sol. Halff, S. Mayer, Simon Frank, A. B. Frank, and Daniel Oppenheimer; the City of San Antonio, a municipal corporation, represented by its mayor, James H. French; Trinity Methodist Episcopal church, a religious corporation, represented by and under the controll of its trustees, R. M. Moore, Wesly Ogden,
315 C. M. Terrell, G. W. Brackenridge, George B. Silsby, and M. A. Daugherty, so far as said trustees are known to plaintiffs; the Baptist church, a religious corporation, under the *under the* controll and represented by its trustees, S. Cayce, E. G. Houston, W. T. Johnson, and James Newton, so far as said trustees are known to plaintiffs; Miss Annie Sweet, Mrs. C. Sweet, widow of J. R. Sweet, Mrs. E. A. M. Houston, or their attorneys of record, are defendants in an action of trespass to try title as well as for damages and rents, and whose testimony is alleged to be material and necessary in said civil cause in behalf of the plaintiffs, and which said witnesses, Juan José Flores, Louis Gomez, Juan Rodrigues, and Mrs. Ursula Gortarri de Arsienega, being each of lawful age and sound mind, and being by me first each respectively and carefully examined, cautioned, and duly sworn on their corporal oaths to testify the whole truth, and nothing but the truth, touching the matters in controversy in said civil cause, depose and says as follows:

The said Juan José Flores, Louis Gomez, Juan Rodrigues, and Mrs. Ursula Gortarri de Arcieneiga, witnesses as aforesaid, not being familiar with the English language, being Mexicans, Rafael M. Pareda, Esqr., a resident of Bexar county, Texas, and a competent interpreter, was duly sworn as interpreter in this connection.

316 *Answers of Juan José Flores.*

Deposition of Juan José Flores, a witness produced and sworn, as aforesaid, in behalf of plaintiffs.

To direct interrogatory No. 1 he answers: My name is Juan José Flores. I live here in San Antonio. I was born in the year 1804, in the month of September, in La Bahia, Texas.

To direct interrogatory No. 2 he answers: When I was eight years old I came to San Antonio and have always resided here to the present time.

To direct interrogatory No. 3 he answers: Yes, sir; because it was the same land I cultivated.

To direct interrogatory No. 4 he answers: I know these lands since the year 1813, when Aredondo came here. I was about ten years old.

To direct interrogatory No. 5 he answers: I know the suerte known as the Miguel Losoya suerte.

To direct interrogatory No. 6 he answers: In the year when I cultivated it; was in the year 1835, but I knew it prior to that time.

317 To direct interrogatory No. 7 he answers: It was in the city of San Antonio, on the east side of the river, bounded north by Vicente Amador; south, I do not know; east by the Moralle; west by Manuel Ximenes and Coyanetes; the land I cultivated was owned by Francisco Garcia, leased to me by Ramon Musquiz, his agent, and it was the same land called the Miguel Losoya suerte, which I first knew about the year 1813.

To direct interrogatory No. 8 he answers: I do not know who owned it then or who held possession of the land at the time. I used to see it under cultivation. I do not know whether leased by Mr. Garcia or Mr. Musquez, but what I know is that I leased it in 1835 from Mr. Garcia, through Mr. Musquez. Governor Martinez sold that land at public sale and Mr. Garcia bought it. I was grown and here in San Antonio when all those lands were sold by the Spanish government.

To direct interrogatory No. 9 he answers: I do not recollect who used to cultivate the land previous to 1835, when I cultivated it, as before answered, and for myself.

318 To direct interrogatory No. 10 he answers: I did.

To direct interrogatory No. 11 he answers; I cultivated the land as tenant of Don Ramon Musquiz, to whom I paid the rent.

To direct interrogatory No 12 he answers: Don Ramon Musquiz leased me the land as agent of Captain Francisco Garcia.

To direct interrogatory No. 13 he answers: Ramon Musquiz was

the brother of Felipe Musquiz and is now dead, and as the agent of Captain Francisco Garcia rented me the land.

To direct interrogatory No. 14 he answers: Don Ramon Musquiz told me that he was the agent of Captain Francisco Garcia.

To direct interrogatory No. 15 he answers: It was known as the Miguel Losoya suerte, owned then by Don Francisco Garcia, when I cultivated it.

To direct interrogatory No. 16 he answers: I paid nine dollars cash to Ramon Musquiz—rent.

319 To direct interrogatory No. 17 he answers: Juan Rodrigues, generally known as Juan Gomez, assisted me in the cultivation of said suerte.

To direct interrogatory No. 18 he answers: Juan Rodriguez is living here in town, and I was also assisted in its cultivation by my brother, Desedario Flores, who has been dead many years.

To direct interrogatory No. 19 he answers: There were no special improvements—all those lands were fenced in together.

To direct interrogatory No. 20 he answers: I do not recollect who continued in possession; know that the land used to be cultivated before I cultivated it.

To direct interrogatory No. 21 he answers: I knew Concepcion Charlé; she was married twice; her first husband's name was Miguel Gortarri.

To direct interrogatory No. 22 he answers: Venturo Losoya was her second husband.

320 To direct interrogatory No. 23 he answers: The names of the children were Elijio Gortarri, Miguel Gortarri, and Santos Gortarri.

To direct interrogatory No. 24 he answers: They had children and their names were Mariquita Losoya, Feles Losoya, Torebio Losoya, Juana Losoya, and Juan Losoya.

To direct interrogatory No. 25 he answers: I knew Miguel Gortarri well—the son. We were good friends. I was about one or two years older than he was. I knew him here in the Alamo many years ago.

To direct interrogatory No. 26 he answers: Miguel Gortarri died many years ago here in town. The Indians killed him.

To direct interrogatory No. 27 he answers: Miguel Gortarri, the son, married Candelaria de la Garza.

To direct interrogatory No. 28 he answers: He was not known by any other name than Miguel Gortarri.

To direct interrogatory No. 29 he answers: I do not know.

321 To direct interrogatory No. 30 he answers: I do not know.

To direct interrogatory No. 31 he answers: I do not know if any one of them ever possessed it or occupied it or cultivated it.

To direct interrogatory No. 32 he answers: Miguel Gortarri was known by the name of Miguel Gortarri and not by any other name, and at the time of his death he was cultivating a suerte of Juana Tarin about where Kampman's present residence now is—I mean Kampman, the old man and builder. There were four suertes between the Miguel Losoya suerte and where he was then cultivating.

To direct interrogatory No. 33 he answers: Miguel Gortarri and family went away across the Rio Grande in the year 1842, but he subsequently abandoned his family and came over to San Antonio again; was absent perhaps a month or two only; she left here because of the war; I know it, because I was here at the time.

To direct interrogatory No. 34 he answers: Miguel Gortarri
322 left here and returned, and in 1843, when he was cultivating the land of Juana Tarin, was killed; I heard then that he was killed.

To direct interrogatory No. 35 he answers: He came over by himself. His family also came over after his death. I do not know in what year his family returned.

To direct interrogatory No. 36 he answers: At the time of his death they were on the "Rio Grande," Mexico.

To direct interogatory No. 37 he answers: I do not recollect after his death when the family returned. I mean how long after his death.

To direct interrogatory No. 38 he answers: Yes, sir; I knew him here in San Antonio, and afterwards I saw him in La Bahia.

To direct interrogatory No. 39 he answers; The only child that I knew Captain Garcia to have was Pilar Garcia, and they lived in the old man Barrera's house, corner of Main plaza and Main street, near the court-house, in this city.

323 To direct interrogatory No. 40 he answers: Yes; I knew Manuel Sabariego; I heard that he had married to Pilar Garcia, daughter of Francisco Garcia and Gertrudes Barrerra.

To direct interrogatory No. 41 he answers: I knew him to have possession of it by tenants.

To direct interrogatory No. 42 he answers: Governor Antonio Martinez sold all those lands by public sale, and Francisco Garcia bought that suerte; he rented the suerte to parties for cultivation until he left for La Bahia, when he left Ramon Musquiz as his agent to represent him. Musquiz went away in 1836; after that time I do not know who was his agent.

To direct interrogatory No. 43 he answers: Francisco Garcia went to La Bahia after the year 1819. Don Antonio Martinez was still governor when he left.

To direct interrogatory No. 44 he answers: Almost everybody knew the suerty to belong to Francisco Garcia.

324 To direct interrogatory No. 45 he answers: It was well known that he owned the suerte, because he was the one that rented it; that he was a prominent person, and besides publicity was given of the public sale of the same by Governor Antonio Martinez.

To direct interrogatory No. 46 he answers: Because I was already prelty well grown when all this occurred, and I used to know the the people well, and they communicated the facts to one another.

To direct interrogatory No. 47 he answers: I cannot say any more than what I have already testified.

his
JUAN JOSÉ x FLORES.
mark

Owing to the inability of Juan José Flores to write I sign for him.

R. M. PARIEDA,
Sworn Interpreter.

Sworn to and subscribed (by mark for signature) before me this 3d day of August, A. D. 1882.

[SEAL] EDWARD MILES,
Notary Public, Bexar Co.

325 Answer of Juan José Flores to cross-interrogatories propounded to him by the defendants in case [of] Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* In the circuit court of the United States, at San Antonio, western district of Texas.

326 At this point the proceedings herein *was* by expiration of the day adjourned to August 4th, 1882, at 9 o'clock a. m., at the same place.

[SEAL.] EDWARD MILES,
Notary Public, Bexar Co., Texas.

The proceedings herein resumed according to ajournment at the time and place fixed.

[SEAL.] EDWARD MILES,
Notary Public, Bexar Co., Texas.

Answers of Juan José Flores to Cross-Int'g's.

To cross-interrogatory No. 1 he answers: I am unable to state the quantity of varas said surete contained; it took some seven or eight pecks of corn to plant the same. I have already given the boundaries. I knew them because they were pointed out to me at the time I rented the land.

To cross-interrogatory No. 2 he answers: I cannot state who the parties were that cultivated it or how long they had possession of it. I only cultivated the surete in the year 1835.

327 To cross-interrogatory No. 3 he answers: I believe not; he used to cultivate lands that were called the Codito.

To cross-interrogatory No. 4 he answers: No, sir; he never cultivated that land.

To cross-interrogatory No. 5 he answers: No, sir.

To cross-interrogatory No. 6 he answers: I believe not.

To cross-interrogatory No. 7 he answers: No, sir; he was not killed there.

To cross-interrogatory No. 8 he answers: He was killed in the year 1843.

To cross-interrogatory No. 9 he answers: I do not know who cultivated the suerte before or after I did. It was in possession of Don Francisco Garcia.

To cross-interrogatory No. 10 he answers: I know for the reason that Ramon Musquez told me himself that he was the agent of Francisco Garcia, and everybody recognized him as such.

To cross-interrogatory No. 11 he answers: Yes, in those
328 years [I] believe it was known by that name.

To cross-interrogatory No. 12 he answers: All those lands were under one common fence and everybody cultivated their own land or rented others.

To cross-interrogatory No. 13 he answers: Does not know of the suerte of Cipriano Losoya. Between the Miguel Losoya suerte and the Ximenes suerte there used to be a cortardo from which we irrigated the western part of the suerte; the eastern part of it we irrigated from the ditch that passed between the Murallo and the suerte.

To cross-interrogatory No. 14 he answers: I never knew any one of the Losoya or Gortarri family to cultivate the same suerte which I cultivated.

To cross-interrogatory No. 15 he answers: No, sir; he left in 1842 and came back the same year.

To cross-interrogatory No. 16 he answers: Miguel Gortarri used to live outside of the suerte, about where the Vance Bro-. store, opposite the Meger hotel, is. His family were not here at the time he was killed by the Indians.

329 To cross-interrogatory No. 17 he answers: No, sir; I believe not.

To cross-interrogatory No. 18 he answers: He did reside here permanently for a number of years until he left to go to La Bahia to assume command of a company of soldiers. I cannot tell the year when he left. Don Antonio Martinez was still governor.

To cross-interrogatory No. 19 he answers: He was here at the time stationed in command of Spanish soldiers.

To cross-interrogatory No. 20 he answers: Yes, sir; but I do not know how long he was under General Aredondo.

To cross-interrogatory No. 21 he answers: I did not see any improvements, or anything in particular as act of possession, only that I rented the suerte, I being one of his tenants. I do not know if he ever paid any taxes on it or not.

To cross-interrogatory No. 22 he answers: From the river up it is the second suerte.

To cross-interrogatory No. 23 he answers: I did not know
330 him. He died in the last century. I do not know when nor where.

To cross-interrogatory No. 24 he answers: I do not know anything about that.

To cross-interrogatory No. 25 he answers: I do not know. He did not die in this country.

To cross-interrogatory No. 26 he answers: I believe that the Losoyas did not have possession of that suerte. They may have been his relatives. I do not believe that Miguel Gortarri was a relative of Miguel Losoya.

To cross-interrogatory No. 27 he answers: He left San Antonio to go to live in La Bahia, where he resided until his death. I do not recollect if he died in the year 1833 or 1834.

To cross-interrogatory No. 28 he answers: I first knew him in La Bahia before he married. He was a captain of a company there.

331 To cross-interrogatory No. 29 he answers: During the Texas revolution he was an officer in the Mexican army. Afterwards I do not know whether he continued as an officer or not.

To cross-interrogatory No. 30 he answers: He went away and took his family with him, and he is now residing in San Luis Potosi, Mexico.

To cross-interrogatory No. 31 he answers: Not long ago he was here again as a civilian.

To cross-interrogatory No. 32 he answers: I did not see the wedding, but in the year 1833 or 1834 I heard that he had married then in La Bahia; don't know in what month.

To cross-interrogatory No. 33 he answers: I am answering these questions in San Antonio, Texas, in the second story, French Building, before Edward Miles, a notary public, Don Rafael Parieda, interpreter, also Juan Rodrigues and Louis Gomez.

his
JUAN JOSÉ x FLORES.
mark

In presence of—
R. M. PARIEDA,
Sworn Interpreter.

Sworn to and subscribed (by mark for signature) before me this 4th day of August, A. D. 1882.

[SEAL.] EDWARD MILES,
Notary Public, Bexar Co., Texas.

332 Answer of Ursula Gortarri de Arsienego to direct and cross interrogatories in case Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Filed Sept. 19, 1882.

In the Circuit court of the United States at San Antonio, Western District of Texas.

333 *Answer of Ursula Gortarri de Arsienaga to Direct & Cross Int'g's. Filed* 19 *Sept.*, 1882.

Depositions of Mrs. Ursula Gortarri de Arsienega, a witness produced and sworn as aforesaid on behalf of plaintiffs.

Answer to interrogatory No. 1: My name is Ursula Gortarri de Arsienega. I live now in *the* Calaveras, Bexar county, Texas. I was born here in San Antonio, in this county. I do not know how old I am. I was born in the year 1823.

Answer to interrogatory No. 2: My father's name was Miguel Gortarri; my mother's name was Candelaria de la Garza.

Answer to interrogatory No. 3: My father and mother are both dead; they both died in San Antonio; my father died in the year 1843 and my mother in the year 1856.

Answer to interrogatory No. 4: My grandmother was Concepcion Charlé and my grandfather was Miguel Gortarri.

Answer to interrogatory No. 5: They had three children—Elijio

Gortarri, Miguel Gortarri, and Santo Gortarri—two boys and one girl.

334 Answer to interrogatory No. 6: She was married twice, and her second husband's name was Venturo Losoya.

Answer to interrogatory No. 7: The names of the children by the second marriage were Mariquita Losoya, Felix Losoya, Torebio Losoya, Juana Losoya, and Juan Losoya.

Answer to interrogatory No. 8: They are all dead, with the exception of Mariquita Losoya, who lives in the city of San Antonio, Bexar county, on the Alamo, near the river, and I believe she is now at her home where I have stated.

Answer to interrogatory No. 9: He was only known by the name of Miguel Gortarri.

Answer to interrogatory No. 10: He was never known by the name of Miguel Losoya.

Answer to interrogatory No. 11: I do not know when my father and mother married.

Answer to interrogatory No. 12: We were four children —
335 I was the oldest—Antonio Gortarri, Dolores Gortarri, and Miguel Gortarri.

Answer to interrogatory No. 13: They lived on the Alamo plaza, where Vance's stores are now, opposite the Menger hotel.

Answer to interrogatory No. 14: We were in Mexico at a town called Presidio de Rio Grande.

Answer to interrogatory No. 15: We went to Mexico in 1842 and we returned in 1846.

Answer to interrogatory No. 16: I know that my mother sold a suerte of land to Maverick, but I do not know what suerte it was.

Answer to interrogatory No. 17: I only know what my mother told me, and that is that she had sold some land to Maverick. I did not see the sale, nor do I know any more of the circumstances.

Answer to interrogatory No. 18: I must have been about twenty years of age.

Answer to interrogatory No. 19: No, sir; no one.

336 her
URSULA GORTARRI x DE ARCIENEGA.
mark.

Subscribed and sworn to (by mark for signature) this 14th day of September, A. D. 1882.

[SEAL.] EDWARD MILES,
Notary Public, Bexar Co., Texas.

R. M. PEREIDA,
Sworn Interpreter.

Answers to Cross-Interrogatories.

Answer to cross-interrogatory No. 1: He was never known by the name of Miguel Losoya.

Answer to cross-interrogatory No. 2: I am the only one of the family living.

Answer to cross-interrogatory No. 3: Owing to my grandmother

having married twice they are half brothers—that is to say, the children of Miguel Gortarri and the children of Venturo Losoya were half brothers and half sisters; these two families did not intermarry.

Answer to cross-interrogatory No. 4: He cultivated land above and north of where we resided, as he went in that direction when he went to his field.

337 Answer to cross-interrogatory No. 5: I do not know what land he cultivated.

Answer to cross-interrogatory No. 6: I do not know where he was killed. I was in Mexico at that time.

Answer to cross-interrogatory No. 7: I do not know how long he cultivated before his death, nor what land he did cultivate.

Answer to cross-interrogatory No. 8: I was born here in San Antonio. I remember from my earliest childhood that he was cultivating land. I do not know, for I never went to the field.

Answer to cross-interrogatory No. 9: I know of no interruption, nor do I know what land he cultivated.

Answer to cross-interrogatory No. 10: I know nothing about it.

Answer to cross-interrogatory No. 11: I never heard of Francisco Garcia being mentioned until now.

Answer to cross-interrogatory No. 12: I only know what
338 my mother told me, and that I have already stated.

Answer to cross-interrogatory No. 13: No one.

Answer to cross-interrogatory No. 14: My mother and myself, and our family except my father, went together to Mexico in the year 1842. My father also went to Mexico, but not with us. My mother, myself, and family returned to Texas in 1846. My father returned to Texas a short time after he went to Mexico; went there only temporarily.

Answer to cross-interrogatory No. 15: I have said all that I know about it, and know no more of it.

her
URSULA GORTARRI x DE ARCIENEGA.
mark

R. M. PIREADA,
Sworn Interpreter.

Subscribed and sworn to before me (by mark for signature) this 14th day of September, A. D. 1882.

[SEAL.] EDWARD MILES.
Notary Public, Bexar Co., Texas.

339 THE STATE OF TEXAS, *County of Bexar:*

I, Edward Miles, a duly appointed, qualified, and commissioned notary public within and for Bexar county, Texas, do hereby certify that at the times and places aforesaid Juan José Flores, Luis Gomez, Juan Rodriguez, and Mrs. Ursula Gortarri de Arnenega, witnesses in behalf of the plaintiffs in the above-entitled cause, were respectively by me duly sworn, before any questions *was* put to any of them, to tell the truth, the whole truth, and nothing but the truth relative to said

cause, and the answers of each of said witnesses to the accompanying interrogatories and cross-interrogatories were respectively taken down in writing by me in the presence of each of said witnesses, and the depositions above set forth were carefully and respectively read over to and signed and sworn to by each of said witnesses before me at the times and place aforesaid.

And I further certify that Rafael M. Pereida was by me selected and duly sworn to true interpretation make of the direct and cross interrogatories propounded to above-named witnesses and of their answers thereto, and that the said Rafael M. Pereida was duly sworn as aforesaid before any questions were propounded to said witnesses; and I hereby certify that the said Rafael M. Pereida
340 is a person duly skilled and qualified in the English and Spanish languages to make such interpretation, and that the oaths administered to said witnesses *was* duly interpreted.

I further certify that I am neither of counsel nor attorney in said cause, nor am I of interest in the same nor am I a party thereto.

Given under my hand and seal of office at my office this 14th day of September, A. D. 1882.

[SEAL.] EDWARD MILES,
Notary Public, Bexar Co., Texas,

341 Answer of Lewis Gomez to direct and cross-interrogatories propounded to him in case [of] Pilar Garcia de Sabariega *et al. vs.* Mary A. Maverick *et al.* No. 53. Filed 19 Sept., 1882. In the circuit court of the United States at San Antonio, western district of Texas.

342 *Answers of Louis Gomez to Direct Int'g's and to Cross-Int'g's. Filed Sept.* 19, 1882.

Deposition of Louis Gomez, a witness produced and sworn as aforesaid on behalf of plaintiffs.

To direct interrogatory No. 1 he answers: My name is Louis Gomez. I was born in Santa Rosa, Mexico; came here to San Antonio when I was twelve years old, and resided here until I was married, since when I have lived on San Juan mission, Bexar county. I was born in 1808.

To direct interrogatory No. 2 he answers: Yes, sir. I knew him in La Bahia in 1835, when Ramon Musquiz sent me with some carts and gave me a letter to take to him.

To direct interrogatory No, 3 he answers: I knew that Don Francisco Garcia owned a suerte of land, because I was present, in 1835, when Don Ramon Musquiz leased the suerte to Don Juan José Flores, stating that it belonged to Don Francisco Garcia. I was servant of Don Ramon Musquiz until I married, being then about twenty-one years old. I cannot describe the land, because I never was sent there. My work was towards the mission.

343 To direct interrogatory No. 4 he answers: Certainly I knew him, for it was in his house where I was raised, and also that a *neice* of mine was married to his brother. I first knew him in

Santa Rosa, and he brought me over to San Antonio when I was twelve years old. Don Ramon is dead. He died in Monclova, Mexico.

To direct interrogatory No. 5 he answers: I knew him well. I lived for many years in his house. I nursed or cared for all his children. I also knew his wife, and know that she is living in Monclover, where all the family are living.

To direct interrogatory No. 6 he answers: I knew no other agent than Don Ramon Musquiz. I know this, because Don Ramon used to say so in his own house, and was present when Juan José Flores leased Francisco Garcia suerte.

To direct interrogatory No. 7 he answers: I know Juan José Flores, and knew him long before 1835. When we were boys we used to be all the time together, and we used to work together.

344 To direct interrogatory No. 8 he answers: In 1835 he cultivated the land that he leased from Ramon Musquez.

To direct interrogatory No. 9 he answers: The suerte belonged to Don Francisco Garcia; I know it, because Don Ramon so stated in the house, I being present.

To direct interrogatory No. 10 he answers: The suerte did not belong to Juan José Flores; it belonged to Francisco Garcia, and Don Manuel Musquez leased it to Flores; I knew that it was here in the Alamo, because I heard Don Ramon say so.

Answers to X Int'ys.

To cross-interrogatory No. 1 he answers: I have all the time been busy working, cultivating the land for fourteen years in San Juan, and also working with my carts as freighter, and when I was here with Don Ramon I worked in the Mission Concepcion, and now I work wherever I can find something to do; during the Confederacy I lost all my oxen.

To cross-interrogatory No. 2 he answers: I recollect when I used first to go to school, when only five or six years old, in

345 Santa Rosa; in 1820 I was about 14 years old.

To cross-interrogatory No. 3 he answers: He was captain in the company at La Bahia; knew him to be such because I used to see him command; I do not know how many years I knew him; several times I took letters to him from Don Ramon Musquez; when I first knew Don Francisco it was about one year after my marriage.

To cross-interrogatory No. 4 he answers: I understood that he came to San Antonio, but at the time I was gone to Nacogdoches with mules, and when I got back he was gone already with the army.

To cross-interrogatory No. 5 he answers: I cannot tell you, for at that time I did not know him; I did not know him till I went to La Bahia.

To cross-interrogatory No. 6 he answers: I know it, having been told so by the very party that had it in charge, and I first heard it when Juan José Flores went to lease it, and he was asked if he was the agent, and I heard Ramon Musquez say yes, and I was present at the time of the agreement.

346 To cross-interrogatory No. 7 he answers: I know it, because I was in the house of Ramon Musquez, and he himself told me that he was the agent of Francisco Garcia here in San Antonio, and lived on the corner of Main plaza and Main street, opposite the old man Barrera's house, south side Main street, in 1835. I was present when Flores leased the land, but I do not know how long he cultivated it.

To cross-interrogatory No. 8—omitted.

To cross-interrogatory No. 9 he answers: I do not know if he did or not.

his
LUIS x GOMEZ.
mark.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed (by mark) before me this 4th day of August, A. D. 1882.

[SEAL.] EDWARD MILES,
Notary Public, Bexar County, Texas.

347 Answer of Juan Rodrigues to direct and cross interrogatories propounded to him in case of Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Filed Sept. 19, 1882. In the circuit court of the United States at San Antonio, western district of Texas.

348 *Answers of Juan Rodriguez to Direct Int'g's & Cross-Int'g's.*

Deposition of Juan Rodrigues, a witness produced and sworn as aforesaid on behalf of the plaintiffs.

To direct interrogatory No. 1 he answers: My name is Juan Rodriguez; I was born in Morelas, Mexico, in the year 1819; I was brought to this city when I was three years old, and have resided [here] all the time, making trips around the country at divers times, making this always my home.

To direct interrogatory No. 2 he answers: I lived here on Market street, and was about 16 years old.

To direct interrogatory No. 3 he answers: I was working for Manuel Herrera in that year, and he sent me to help Juan Jose Flores to cultivate the suerte of land that Flores had leased.

To direct interrogatory No. 4 he answers: I was working in the suerte of land leased to Juan José Flores by Ramon Musquez. I do not know who owned the suerte. That suerte of land was situated west of and near the murallo, on the Alamo, in the city of San Antonio.

To direct interrogatory No. 5 he answers: I know that he
349 cultivated that land, because he leased it. At that time I asked him whose land it was, and he told me that he had leased it from Ramon Musquez.

X Int'g's:

To cross-interrogatory No. 1 he answers: I only worked with Flores until he got through sowing, which took two or three days' time to sow the corn.

To cross-interrogatory No. 2 he answers: I do not know.

his
JUAN x RODRIGUEZ.
mark.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed (by mark for signature) before me this 4th day of August, A. D. 1882.

[SEAL.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

350 Direct interrogatories propounded by plaintiffs to Manuel Sabariego in case of Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.*, No. 53. In the circuit court of the United States, at San Antonio, western district of Texas.

351 Interrogatories to be propounded to Manuel Sabariego, a resident of the city of San Luis Potosi, Republic of Mexico, and now temporarily residing in the city of San Antonio:

Direct Int'g's to Manuel Sabariego. Filed Nov. 18, 1881.

Int'g. 1st. What is your name, residence, and occupation?

Int'g. 2d. Are you or not a married man? And if your are, then state when, where, and whom did you marry.

Int'g. 3d. If you say you married Pilar Garcia, who was her mother and father, and are they living or dead?

Int'g. 4th. State, if you know, whether or not the father and mother of Pilar Garcia had any other children in lawful wedlock other than Pilar Garcia.

Int'g. 5th. If you have stated, in answer to direct interrogatory 2d, that you married Pilar Garcia, then state if she is yet your wife, and where is she now.

Int'g. 6th. If, in answer to interrogatory 3d, you have stated that the father and mother of Pilar Garcia are dead, then state when and where did they die.

352 Int'g. 7th. If you have stated that you married Pilar Garcia, then state up to what time you have continued to live together as man & wife.

Int'g. 8th. What country are you and your wife citizens of?

Int'g. 9th. Who are the plaintiffs in this suit?

353 Cross-interrogatories propounded to Manuel Sabariego in case of Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Filed Nov. 2, 1881. In the circuit court of the United States at San Antonio, western district of Texas.

354 *Cross-Int'g. to Manuel Sabariego. Filed Nov.* 2, 1881.

In the Circuit Court of the United States for the Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et als.*
vs.
MARY A. MAVERICK *et als.*

Cross-interrogatories to plaintiffs' witnesses named in their notice, filed Oct. 17, 1881.

Cross-interrogatories to be propounded to Manuel Sabariego, a witness for the plaintiffs.

Cross-interrogatory No. 1. Where and when were you born, and when and where was Pilar Garcia de Sabariego born?

2d. Where has the said Pilar Garcia de Sabariego lived since her birth, and where have you lived since your birth?

3d. If you say that your wife is a citizen of the Republic of Mexico, you will now also state whether she has not always been a citizen of that country since the time of her birth?

355 4th. If you say, in answer to the interrogatories-in-chief, that your wife was the daughter of Francisco Garcia and Gertrudis Barrera, you will now also state when and where said parents of your wife lived, and when and where they and each of them died? Did not both of them live and die in Mexico?

5th. Did not Francisco Garcia die in the year 1834, at Goliad, then a part of the Republic of Mexico?

6th. Did not you marry your wife at the same place (Goliad) in the year 1835, and did not your mothe- and your wife and yourself remove to Matamoras, in Mexico, before the second day of March, 1836?

7th. Did not your wife's mother remain in Mexico until her death, and have not you and your wife remained citizens of Mexico since your removal from Goliad to Matamoras before the said second day of March, 1836?

8th. If you say, in answer to the three foregoing interrogatories, that Francisco Garcia did not die in 1834, but at some other time, and that you did not marry your wife in 1835, but at some other time, and that you and your wife and *and* your wife's mother

356 did not remove to Matamoras, as stated in said three interrogatories, you will now please state whether you did not testify in a suit tried in the district court of Goliad county in or about the year 1858 before Judge Edmund J. Davis, in which suit yourself and wife were plaintiffs and Samuel A. White was defendant, and which suit was brought for the recovery of a league and a half of land, that Francisco Garcia died in the year 1834; that you and your wife were married in the year 1835, and that your wife's mother and your wife and yourself removed to Matamoras before the second day of March, 1836, and that after said removal you all remained citizens of Mexico up to the time of said trial, except your wife's mother, who died in 1842?

9th. Did you not testify to the same facts as stated in the last foregoing interrogatory in the same suit, involving the same land, and between the same parties on a trial before Judge Thomas J. Devine, in or about the year 1860, in the district court of said Goliad county?

10th. What was the business or occupation of Francisco Garcia in the year 1813 and 1814 and in the year 1819 and 1820?

357 11th. Where did the family of the said Francisco Garcia live in 1819 and from that time until the death of said Garcia?

12th. What was your occupation or business at the time you married your wife and thereafter?

13th. Have you been at any time since your marriage with your wife in the Republic or State of Texas? If so, state when you was so in Texas, the place where you were, and what was you business or occupation at such time or times.

14th. Were you not in the neighborhood of Goliad in the year 1838 in company with or in command of about 20 or 25 other men; if yea, what was your business in Texas at that time and how long did you then remain in Texas?

15th. Were you not again in Texas in or about the month of January, 1843; if so, who was with you then and what was your business at that time?

16th. Did you not hold a commission or had a command in the Mexican army in or about the month of January, 1843, and did you not at that time, as commander of a guard, have in charge a

358 party of Americans or Texas prisoners, known as the Mier prisoners on their march from Matamoras to Monterey; if yes, did the guard under your command have charge of those prisoners, when did you take charge of them, and where did you take them?

17th. At what place do you answer these interrogatories-in-chief and cross-interrogatories, who is present while you are answering them or any of them? And, if you are answering through an interpreter, state who is the interpreter.

359 Direct interrogatories propounded to Pilar Garcia de Sabariego in case of Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* No. 53. Filed Nov. 2, 1881. In the circuit court of the United States at San Antonio, western district of Texas.

360 *Int'g's to Pilar Garcia de Sabariego.*

Interrogatories to be propounded to Pilar Garcia de Sabariego, a resident of the city of San Luis Potosi, Republic of Mexico, and now temporarily residing in the city of San Antonio, Texas.

Int'g 1st. What is your name and where do you reside?

Int'g 2d. When and where were you born?

Int'g 3d. Who were your parents. Give full name of your father as well as your mother.

Int'g 4th. Are your parents dead or alive? And, if you state that they are dead, then state also when and where each of them died.

Int'g 5th. If you say your parents were Francisco Garcia and Gertrudes Barrera, his wife, then state how many children they had in lawful wedlock.

Int'g 6th. What relation do you bear to Manuel Sabariego?

Int'g 7th. If you have stated that Manuel Sabariego is your husband, then state also when and where you and he were married?

361 Int'g 8th. If you have stated that you and Manuel Sabariego are husband and wife, state how long you and your husband have continuously lived together as man & wife; and, as near as you can, state when and where your husband has resided since your marriage, and give the name of the different places of yours and your husband's residences, and the length of time of each such residences since your marriage.

Int'g 9th. State whether you married Manuel Sabariego before or after the death of your father, Francisco Garcia?

Int'g 10th. State whether or not you are the same Pilar Garcia, who in 1833, married Manuel Sabariego at La Bahia, in the then province of Texas, and state also where your husband, Manuel Sabariego, now is.

362 Cross-interrogatories propounded to Pilar Garcia de Sabariego in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and Mary A. Maverick *et al.* are defendants. Filed Nov. 2, 1881. In the circuit court of the United States, at San Antonio, western district of Texas.

363 *Cross-Int'g's to Pilar Garcia de Sabariego. Filed Nov.* 2, 1881.

Cross-interrogatories to be propounded to Pilar Garcia de Sabariego.

1st. If you say, in answer to the interrogatoris-in-chief, that your parents are dead, then please state now whether your father did not die at Goliad in the year 1834, and did not your mother die in Mexico in 1842?

2d. In what year were you born, and what was your age at the time of your marriage to Colonel Manuel Sabariego?

3d. What is the present age of your husband and when and where was he born?

4th. What office or commission did your husband hold in the Mexican army before and after and during the year 1843?

5th. How far back do you remember your father, and where did he live from that time until his death?

6th. How old were you when your father died, and how old were you at the time of your mother's death?

364 7th. Did not your husband and yourself and your mother remove from Goliad, in Texas, to Matamoras, in Mexico, in the year 1835, or before the second day of March, 1836?

8th. Are you positive that your father and mother lived at Goliad from the time you first remember them until your father died?

9th. Where do you answer these interrogatories-in-chief and cross-interrogatories; who is present while you are answering them, or any of them? And, if you are answering through an interpreter, state who the interpreter is.

365 Direct interrogatories propounded to Mariano Cabrero and Ygenio Salazar in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and Mary A. Maverick *et al.* are defendants. Filed Oct. 17, 1881. In the circuit court of the United States, at San Antonio, western district of Texas.

366 *Int'g's to Mariano Cabrero and Yginio Salazar. Filed Oct.* 17, 1881.

Interrogatories to be propounded to Mariano Cabrero and Yginio Salazar, citizens of Goliad county, Texas, but now temporarily residing in San Antonio, Texas, and who are aged and infirm.

Int'g. 1st. What is your name and where do you reside?

Int'g. 2d. When and where were you born?

Int'g. 3d. If you state that you reside in Goliad or La Bahia, then state how long you have lived there.

Int'g. 4th. Were you ever acquainted with Francisco Garcia and his family? And, if you answer in the affirmative, then state where they lived when you first knew them, and whether you were well and intimately acquainted with them or not.

Int'g. 5th. What was the name of Francisco Garcia's wife?

Int'g. 6th. How many children did Francisco Garcia and his wife, Gertrudes Barrera, have in lawfull wedlock?

367 Int'g. 7th. Are Francisco Garcia and *and* Gertrudes Barrera, his wife, dead or alive?

Int'g. 8th. If you state that Pilar Garcia was their only child, then state whether or not you knew said Pilar well, and whether or not you have seen and talked to her often when she lived with her parents at La Bahia.

Int'g. 9th. State whether or not you know Manuel Sabariego; and, if you do, state when and where you first knew him.

Int'g. 10th. State whether or not Pilar Garcia married at any time.

Int'g. 11th. If you state she married, then state whom she married and when and where she married.

Int'g. 12th. If you cannot give the year of the marriage of Pilar Garcia with Manuel Sabariego, then state whether such marriage took place before or after the death of Pilar's father, Francisco Garcia.

Int'g. 13th. If, in answer to the last preceeding interrogatory, you state that such marriage took place before the death of Francisco Garcia, then state when and where Francisco Garcia died.

368 Int'g. 14th. If you say you do not know the year when Francisco Garcia died, then state whether or not, at the time of said Garcia's death an epidemic was prevailing about La Bahia; give the name of the epidemic then so prevailing, and state whether or not Francisco Garcia died of that disease.

Int'g. 15th. If you state, in answer to interrogatory No. 14, that at the time of Francisco Garcia'- death the disease known as cholera was prevailing, and that Garcia died of cholera, then state also whether or not such cholera epidemic and the death of Francisco took place before or after General Santa Anna came with the Mexican army to Texas.

Int'g. 16th. Where did you see Pilar Garcia and her husband next, after they had left La Bahia.

Int'g. 17th. If you say you next saw them in Matamoras, in Mexico, then state when that was.

Int'g. 18th. State when and where you saw Pilar Garcia next, after having seen her at Matamoras.

369 Int'g. 19th. If you say, in answer to the last preceeding interrogatory, that you have seen Pilar Garcia last in San Antonio, Texas, in the months of September or October, 1881, then state whether or not she is the same person you knew in La Bahia to have married Manuel Sabariego?

Int'g. 20. When was it that you saw Manuel Sabariego last, and where was his wife, Pilar Garcia, at that time?

Int'g. 21st. What was the nature of the business carried on by Francisco Garcia in La Bahia, and state whether or not, by reason of such business, the people of the place came often in contact with him and his family, and was Garcia engaged in the sale of goods, wares, and merchandise or not?

370 Cross-interrogatories to Mariano Cabrero and Ygenio Salazar, propounded to them in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and Mary A. Maverick *et al.* are defendants. Filed Nov. 2, 1881. In the circuit court of the United States at San Antonio, western district of Texas.

371 *Cross-Int'g's to Mariano Cabrero and Ygenio Salazar. Filed Nov.* 2, 1881.

Cross-interrogatories to be propounded to Mariano Cabrero and Ygenio Salazar.

1st. If you say, in answer to the interrogatories-in-chief, that you were well or intimately acquainted with Francisco Garcia and his family, then please state now where you first became acquainted with said Francisco Garcia; and if you say that he and his family lived in Goliad when you first knew them, then state also whether said Francisco Garcia continued to live in Goliad until he died. Please be positive in your answer to this.

2d. If you say that Francisco Garcia and his wife are dead, then state when and where each of them died.

3d. Did not Francisco Garcia die at Goliad in the year 1834, and did not his wife die in Mexico in the year 1842?

4th. When and where was Pilar Garcia born?

5th. If you say that Pilar Garcia was married, then state now to whom she was married and when.

372 6th. Was not Pilar Garcia married in the year 1835?

7th. Did not Pilar Garcia and her husband and her mother remove from Goliad to Mexico shortly after the marriage of Pilar to Colonel Manuel Sabariego?

8th. How long after the marriage did Manuel Sabariego and his wife and his wife's mother remove from Goliad to Mexico?

9th. Where have Col. and Mrs. Sabariego lived since their removal from Goliad?

10th. Have you seen the wife of Manuel Sabariego at any time since their removal from Goliad in 1835, or did you see her again for the first time after their removal when you saw her in San Antonio in September or October, 1881?

11th. Did you see Manuel Sabariego at any time in Texas after his removal with his family from Goliad; if so, when did you see him and how often and in what year or years?

373 12th. If you say that you saw Pilar Garcia at Matamoras, then state distinctly when it was that you saw her there.

13th. If you say that Francisco Garcia sold goods, wares, and merchandize at Goliad or La Bahia, then state now when he commenced selling goods at Goliad, and whether he carried on that business until he died.

14th. If you knew Francisco Garcia as early as 1820, then state whether he was then engaged in selling merchandize at Goliad or La Bahia.

15th. Was not Francisco Garcia an officer of the Spanish army before 1820 or 1821? If so, what was his rank in that army, and how long had he been an officer before the year 1820 or 1821?

16th. How old was Pilar Garcia when she married Col. Sabariego?

17th. At what place do you answer these interrogatories and the interrogatories-in-chief? Who is present while you are making your answers? And if you are answering through an interpreter then state who the interpreter is.

374 Direct interrogatories to Guadaloupe Gerrero, Esteven Huron, Juan Huron, and Jesusa Valdez, propounded to them in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs, and Mary A. Maverick *et al.* are defendants. In the circuit court of the United States at San Antonio, western district of Texas.

375 *Int'gs to Gudaloupe Gerrero, Estevan Huron, Juan Huron, & Jesusa Valdez. Filed* 17 *Oct.*, 1881.

Interrogatories to be propounded to Guadalupe Guerrero, Estevan Huron, Juan Huron, and Jesusa Valdez, citizens of Bexar county, Texas, and who are aged and infirm.

Int'g. 1st. What is your name, and where do you reside?

Int'g. 2d. When and where were you born, or if you do not know your age or the time of your birth, state, to the best of your knowledge and recollection, how big or how old you were at the time of the "big cholera" prevailing in La Bahia, or Goliad, or were at the time of the invasion of Texas by General Santa Anna?

Int'g. 3d. If you state that you were born and raised in La Bahia, then state up to what time you continued to reside and live there.

Int'g. 4th. Where have you resided since you left La Bahia?

Int'g. 5th. Did you or not at any time know, at La Bahia, Francisco Garcia and his wife, and, if so, who was his wife; and if they had any children who were they; give their names; and are Garcia and wife dead or alive?

376 Int'g. 6th. State also whether or not you know Manuel Sabariego; and, if you state you do, then state if he ever married; and, if so, when, where, and whom did he marry?

Int'g. 7th. If you state that Pilar Garcia was married to Manuel Sabariego, then state if such marriage took place before the death of Francisco Garcia or not.

Int'g. 8th. What was the nature of the business of Francisco Garcia carried on at La Bahia? And state whether or not, by reason of such business, the people of the place came generally in contact with him and his family.

Int'g. 9th. When and where was it that you saw Pilar Garcia and her husband, Manuel Sabariego, again after they had left La Bahia?

Int'g. 10th. If you say that it was at San Antonio, Bexar county, Texas, during the months of September and October, 1881, that you next saw said persons, then state whether or not they are the same Pilar Garcia and Manuel Sabariego whom you knew to be man and wife at La Bahia before you yourself left that place for Bexar county.

BERRY & ROSENHEIMER,
HOWARD & HARRISON, AND
MASON & PASCHAL,
Att'ys for Pl'ffs.

377 Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs.* Mary A. Maverick *et als.* Notice and interrogatories to be propounded on behalf of plaintiffs. Filed Oct. 7, 1881. W. C. Robards, clerk.

378 Cross-interrogatories to Guadalupe Guerrero, Estevan Huron, Juana Huron, and Jesusa Valdez, propounded to them by the defendants in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and Mary A. Maverick *et al.* are defendants. Filed Oct. 17, 1881. In the circuit court of the United States, at San Antonio, western district of Texas.

379 *Cross-Int'g's to Guadalupe Guerrero, Estevan Huron, Juana Huron, and Jesusa Valdez.*

Cross-interrogatories to be propounded to the witnesses, Guadalupe Guerrero, Estevan Huron, Juana Huron, Jesusa Valdez.

1st. If you say, in answer to the interrogatories-in-chief, that you knew Francisco Garcia and his wife in La Bahia, then state now when you first knew them and whether you are certain that they lived there continually from the time you first knew them until Francisco died.

2d. When did Franci-co Garcia die? Did he not die in the year 1834?

3d. What is the present age of each of you?

4th. How old was Pilar Garcia when you first knew her?

5th. Where was Pilar Garcia born, and how old is she now?

6th. How old was Pilar Garcia when she was married to Col. Sabariego?

7th. Where did you last see Pilar Garcia—in La Bahia or Goliad—and did you not see her again from that time until you saw her in San Antonio in September or October, 1881?

380 9th. Did not Pilar Garcia and her husband and her mother remove from La Bahia to Matamoras, in Mexico, in the year 1835, or during the first two months of 1836?

10th. Did not Mrs. Garcia, the wife of Francisco Garcia, die in Mexico in 1842?

11th. How long was it before Francisco Garcia'- death that Manuel Sabariego and his wife and his wife's mother left Goliad for Mexico?

12th. How long was it after Pilar Garcia'- marriage to Col. Sabariego that Sabariego and his wife and his wife's mother left Goliad for Mexico?

13th. At what place do you answer these interrogatories and cross-interrogatories? Who is present while you are making your answers? And if you answer through an interpreter, then state who the interpreter is.

WAELDER & UPSON,

Attorneys for Mary E. Maverick, Albert Maverick, Geo. M.

381 *Maverick, Samuel Maverick, Wm. H. Maverick, Edward H. & Mary Terrell, J. H. Kampman, H. D. Kampman & Wife, Bertha & H. A. Doeer, Jacob & Ada Waelder, C. S. & Sarah S. Terrell, Ed. Steves, Mrs. E. A. Patten, Fritz Steiner, E. Dillon, Miss Sweet and Mrs. Sweet, J. P. & Mary Reed, E. V. & A. H. Steagall.*

Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs.* Mary A. Maverick *et als.* Cross-interrogatories. Filed Nov. 2, 1881. W. C. Robards, clerk.

382 Direct interrogatories to Dionicio Flores, propounded to him by the plaintiffs in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and Mary A. Maverick *et al.* are defendants. In the circuit court of the United States at San Antonio, western district of Texas.

383 *Int'g's to Dionicio Flores.*

Interrogatories to be propounded to Dionicio Flores, a citizen of Goliad county, Texas, temporarily residing at San Antonio, Texas, and who is aged and infirm.

Int'g. 1st. What is your name and where do you reside, and when and where were you born?

Int'g. 2d. Where did you live from the time of your birth until the year A. D. 1836?

Int'g. 3d. Where did you live from the year 1836 until the year 1851?

Int'g. 4th. Where did you live from the year 1851 until now?

Int'g. 5th. Were you ever acquainted with Francisco Garcia and his family? And, if you answer in the affirmative, then state where they lived when you first knew them, and where they lived in the years 1833 and 1834.

Int'g. 6th. To what extent were you acquainted with that family, and what acquaintance did you have with the different members of that family, and did you know them intimately or slightly?

384 Int'g. 7. What was the name of the wife of Francisco Garcia?

Int'g. 8th. Are Francisco Garcia and his wife, Gertrudes Barrera, dead or alive?

Int'g. 9th. How many children did Francisco Garcia and his wife, Gertrudes Barrera, have in lawful wedlock?

Int'g. 10th. If you state that Pilar Garcia was the only child in lawful wedlock of Francisco Garcia and his wife, Gertrudes Barrera, then state whether or not you knew said Pilar and how well you were acquainted with her, and whether you have seen or conversed with her often or not when she lived with her parents at La Bahia.

Int. 11th. When and where did Francisco Garcia die?

Int'g. 12th. When and where did Gertrudes Barrera, wife of said Garcia, die?

Int'g. 13th. Do you know Manuel Sabariego? And, if you do, then state when and where you first knew him.

Int'g. 14th. Is Pilar Garcia a married woman or not?

385 Int'g. 15th. If you say that she is a married woman, then state when, where, and whom she married, if you know.

Int'g. 16th. If you say she married Manuel Sabariego, then state if she and her husband are yet living together as man and wife.

Int'g. 17th. State whether or not Pilar Garcia and her husband, Manuel Sabariego, were married before or after the death of her father, Francisco Garcia.

Int'g. 18th. Where and during what years did you next see Pilar Garcia and Manuel Sabariego living together as man and wife, after they left Goliad or La Bahia?

Int'g. 19th. If you say [you] saw Pilar and Manuel living together at Matamoras, Mexico, state in what years this was and how often you saw them there.

Int'g. 20th. Did you or not see Pilar and Manuel afterwards in Monterey, Mexico; and, if you say you did, state in what year it was and how often you saw them thus in Monterey, Mexico.

Int'g. 21st. When and where did you next meet and see Pilar Garcia and her husband, Manuel Sabariego?

386 Int'g. 22d. If you have answered to the last preceeding interrogatory that it was at San Antonio, Bexar county, Texas, during the months of September and October, 1881, that you again and for the last time met and saw Pilar Garcia and her husband,

Manuel Sabariego, then state whether or not they are the same Pilar Garcia and Manuel Sabariego who you stated were married in 1833, as aforesaid.

387 Cross-interrogatories to Dionicio Flores, propounded to him by the defendants in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and vs. Mary A. Maverick *et al.* are defendants. In the circuit court of the United States at San Antonio, western district of Texas.

388 *Cross-Int'g's to Dionicio Flores.*

Cross-interrogatories to be propounded to the witness, Dionicio Flores.

1st. What is your present age?

2d. If in answer to the second direct interrogatory you say that you were born at Goliad and that you lived there until 1836, then state at what particular time you left Goliad in 1836, and where you went to.

3d. If you say, in answer to the interrogatories-in-chief, that Francisco Garcia and his wife are dead, then state now the true time of the death of each and when they died.

4th. Did not Francisco Garcia die in Goliad in the year 1834, and did not his wife die in Matamoras, in Mexico, in the year 1842?

5th. If you say that you were well acquainted with Pilar Garcia, then state now when she was born and where, and how old she was when she was married to Manuel Sabariego.

6th. Where were you when Pilar Garcia was married, and
389 what is her present age?

7th. Are you positive that Francisco Garcia lived in Goliad up to the time of his death, and how long had he lived there at the time of his death?

8th. When did you first know Francisco Garcia, and where was he at that time?

9th. If you should say that Pilar Garcia was married to Col. Sabariego, then please state how you know the exact time of their marriage.

10th. How long was it before the Texas revolution that Pilar Garcia was married to Col. Sabariego? Do you remember the time of the declaration of independence by Texas from Mexico, and how long was it that Pilar Garcia was married before that declaration?

11th. Where do you answer these interrogatories, who is present while you are answering them? And if you answer through an interpreter state who the interpreter is.

390 Answers of Manuel Sabariego, Pilar Garcia de Sabariego, Mariano Cabrero, Ygenio Salazar, Guadaloupe Guerrero, Dionicio Flores, Juana Huron, Estevan Huron, Maria de Jesus Valdez to direct and cross interrogatories propounded to them in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and Mary A. Maverick *et al.* are defendants. In the circuit court of the United States, at San Antonio, western district of Texas.

Endorsed: No. 53. Manuel Sabariego and Pilar Garcia de Sabariego *vs.* Mary A. Maverick *et al.* Depositions of witnesses in behalf of plaintiffs. Opened and filed Dec. 16, 1881. W. C. Robards, clerk.

391 *Answers of Manuel Sabariego, Pilar Garcia de Sabariego, Mariano Cabrero, Ygnio Salazar, Gudaloupe Guerreo, Dinonecio Flores, Juana Huron, Esteran Huron, Maria de Jesus Valdez. Filed Dec.* 16, 1881.

WESTERN DISTRICT OF TEXAS,
The State of Texas, County of Bexar, City of San Antonio:

Be it remembered that on the fourth day of November, A. D. 1881, before me, Edward Miles, a duly appointed, qualified, and commissioned notary public under the laws of the State of Texas in and for Bexar county, Texas, at the office of Mason and Paschal, corner of Houston and Soledad streets, in the city of San Antonio, in the county of Bexar and State aforesaid, within the said western district of Texas, and between the usual hours of business, were produced and personally came before me Manuel Sabariego, Pilar Garcia de Sabariego, Mariano Cabrero, Yjuno Salazar, Guadalupe Guerrero, Dionisio Flores, Juana Huren, Estevan Huron, Maria de Jesus Valdez, witnesses in behalf of the plaintiffs, to depose and true answers make to the accompanying interrogatories and cross-interrogatories issued out of the circuit court of the United States for the western district of Texas, at San Antonio, on the 3rd day of November, A. D. 1881, under the accompanying commission, to depose in a civil cause depending in the circuit court of the United States for the western
392 district of Texas, held at San Antonio, in the last said district, on the common law side of said court, wherein Pilar Garcia de Sabariego and Manuel Sabariego, her husband, are plaintiffs and Mary A. Maverick, Albert Maverick, George M. Maverick, Samuel Maverick, William H. Maverick, Edward H. Terrell, and Mary Terrell, his wife; J. H. Kampman, Herman D. Kampman, and Elizabeth Kampman, his wife; Bertha Doerr and H. A. Doerr, her husband; Phillip Immecke, Fritz Steiner, Jacob Waelder, and Ada Waelder, his wife; Edward Degener and Mary Degener, his wife; C. M. Terrell and Sarah S. Terrell, his wife; Ed. Steves, E. Dillon, A. Michel, and Helen Michel, his wife; J. P. Reed and Mary E. Reed, his wife; Frances E. Vance and J. Milton Vance, as executors of the estate of William Vance, deceased, and individually, and Mary Vance, wife of Milton Vance; C. Upson, executor of the estate of James Vance, deceased; Dr. J. R. Smith, Daniel Oppenheimer, and Louisa Oppenheimer, his wife; Mrs. E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumaker, Temple Beth-El "Synagogue," a religious corporation,
393 represented by and under the control of its trustees, Sol. Halff, S. Mayer, Simon Frank, A. B. Frank, and Dan. Oppenheimer; The City of San Antonio, Texas, a municipal corporation, represented by its mayor, James H. French; Trinity Methodist Episcopal Church, a religious corporation, represented by and under the control of its trustees, R. M. Moore, Wesley Ogden, C. M. Terrell, G. W. Bracken-

ridge, George B. Silsby, and M. A. Dougherty, so far as trustees are known to plaintiffs; The Baptist Church, a religious corporation, represented by and under the control of its trustees, S. Cayce, E. G. Houston, W. D. Johnson, and James Newton, so far as said trustees are known to plaintiffs; Miss Annie Sweet and Mrs. C. Sweet, widow of J. R. Sweet; and Mrs. E. A. M. Houston, are defendants in an action of trespass to try title as well for damages and rents, and whose testimony is alleged to be material and necessary in said civil cause in behalf of the plaintiffs, and which said witnesses, Manuel Sabariego, Pilar Garcia de Sabariego, Mariano Cabrero, Ygnio Salazar, Guadalupe Guerrero, Dionicio Flores, Juana Huron, Estevan Huron, Maria Jesus Valdez, being of lawful age and
394 sound mind, and being by me first carefully examined, cautioned, and duly sworn on their respective corporal oaths to testify the whole truth touching the matters in controversy in said civil cause, respectfully depose and say as follows:

Deposition of MANUEL SABARIEGO, a witness produced and sworn as aforesaid on behalf of the plaintiffs:

To direct interrogatory No. 1 he answers: My name is Manuel Sabariego; residence, city of San Luis Potosi, Mexico; profession, that of merchant and miner.

To direct interrogatory No. 2 he answers: I am a married man; married to Pilar Garcia y Barrera de Sabariego.

To direct interrogatory No. 3 he answers: Her parents were Francisco Garcia and Gertrudes Berrera; they are both dead.

To direct interrog. No. 4 he answers: They had no other children, my wife being their only child.

To direct interrog. No. 5 he answers: She is my wife and she is here now.

395 To direct interrog. No. 6 he answers: Don Francisco Garcia died of cholera in Goliad, Texas, in the year 1834; Doña Gertrudes Berrera died in the port of Matamoras, Mexico, in the year 1843.

To direct interrog. No. 7 he answers: I married in Goliad, in the year 1833, and have continued to live with her as man and wife to this date.

To direct interrog. No. 8 he answers: We are citizens of the Republic of Mexico.

To direct interrog. No. 9 he answers: My wife, Pilar Garcia, and myself.

[In] answer to cross-interrogatory No. 1 he answers: I was born in Jalapa, State of Vera Cruz, Republic of Mexico, in the year 1807; she was born in San Fernando de Bexar, State of Texas; I believe she was born in the year 1817.

To cross-interrog. No. 2 he answers: She first lived in San Antonio—from the time of her birth some three or four years—and then in La Bahia or Goliad, Texas, until the year 1835; next in Matamoras, Mexico, until the year 1845; next in San Luis
396 Potosi, until this date. I lived in Jalapa, Mexico, until my

twelfth year, when I entered the military career which carried me over a great many places—over the Republic of Mexico, Central America, and Texas.

To cross-interrog. No. 3 he answers: She has always been a citizen of Mexico, at her birth Texas then being a part of that Republic.

To cross-interrog. No. 4 he answers: My wife's parents lived here in San Antonio and in Goliad; my father-in-law did in Goliad in the year 1834; my mother-in-law died in Matamoras, Mexico, in the year 1843; they both died within what was then the Republic of Mexico.

To cross-interrog. No. 5 he answers: I have fully answered in my answer to cross-interrog. 4.

To cross-interrog. No. 6 he answers: No; I married in 1833; my family left Goliad for Matimoras in 1835.

[To] cross-interrog. No. 7 he answers: She remained in Mexico until she died; we have never changed our citizenship.

397 To cross-interrog. No. 8 he answers: I never testified in that suit at all.

To cross-interrog. No. 9 he answers: No, sir; I have never given evidence in any such suit.

To cross-interrog. No. 10 he answers: I believe he was a military man.

To cross-interrog. No. 11 he answers: Francisco Garcia lived in San Antonio, Texas, with his family in 1819, and after that lived in La Bahia de Esperito Santo until his death.

To cross-interrog. No. 12 he answers: I was a military man; was captain in the regular army of Mexico and then colonel until 1855, when I left the army and became a merchant and miner and agriculturist.

To cross-interrog. No. 13 he answers: I have been several times in Texas, commissioned on duties or business in the Mexican army, under the directions of my superiors, in several places; I don't recollect what years I was in Texas.

398 To cross-interrog. No. 14 he answers: I do not recollect if that year I was in Texas, in the neighborhood of Goliad, but when I was there I was not in command of 20 or 25 men. I had 100 or 150 men under my command at the time, and was under orders from my superiors. I remained a short time and returned to Mexico to report.

To cross-interrog. No. 15 he answers: I do not remember if I was here then.

To cross-interrog. No. 16 he answers: In Matamoras; I was commissioned by Gen. Ampudia. I do not remember the date, but I do remember that I received there Gen. Green, Col. Fisher, and other officers, whose names I do not remember, and took them to Monterey, as commander of a guard, and then turned them over to Commanding Gen. Orbega; the prisoners themselves can state what treatment they received at my hands; they were Texas prisoners and known as the Mier prisoners.

399 To cross-interrog. No. 17 he answers: I am answering these interrogatories and cross-interrogatories in the office of Mess. Mason and Paschal, on the corner of Houston and Soledad

streets, in the City of San Antonio, before Edward Miles, Esqr., a notary public; present also, Mr. R. M. Pereida, interpreter; my wife, Mariana Cubrera, Ygnio Salazar, and Dionicio Flores; this office is upstairs, second story.

MANUEL SABARIEGO.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed before me this 4th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

Deposition of Mrs. Pilar Garcia de Sabriego, a witness produced and sworn as aforesaid on behalf of plaintiffs.

To direct interrogatory No. 1 she answers: My name is Pilar Garcia de Sabariego. I live in San Luis Potosi, Mexico.

To direct interrog. No. 2 she answers: I was born in San
400 Fernando de Bexar, Texas, in the year 1817, in the house that belonged to my grandfather, corner Main plaza and Main street.

To direct interrog. No. 3 she answers: Francisco Garcia was my father and Gertrudes Berrera my mother.

To direct interrog. No. 4 she answers: My parents are both dead. My father died in Goliad in the year 1834. My mother died in Matamoras in the year 1843.

To direct interrog. No. 5 she answers: I was their only child.

To direct interrog. No. 6 she answers: I am his wife.

To direct interrog. No. 7 she answers: We were married in the year 1833, at Goliad.

To direct interrog. No. 8 she answers: We have lived together as man and wife from the time of our marriage to this date; from 1833 to 1835 my husband lived in Goliad with me; from 1835 to 1846 we lived in Matamoras; from 1846 until 1848 in San Luis Potosi; from 1848 to 1850 in Matamoras; from 1850 until now in San Luis Potosi.

401 To direct interrog. No. 9 she answers: I married before the death of my father.

To cross-interrog. No. 10 she answers: I am the same Pilar Garcia who in 1833 married Manuel Sabariego, and he is now present.

To cross-interrog. No. 1 she answers: Yes; he died in Goliad in the year 1834. No, sir; my mother died in Matamoras in the year 1843.

To cross-interrog. No 2 she answers: I was born in the year 1817, and was about 15 or 16 years old when I married Manuel Sabariego.

To cross-interrog. No. 3 she answers: My husband is about 73 or 74 years of age, I suppose, and he was born in Jalapa, Mexico.

To cross-interrog. No. 4 she answers: My husband; I do not know what commission he held in the Mexican army.

To direct interrogatory No. 5 she answers: From the time I had use of reason until my father's death, in 1834, I knew him and remember him. He lived in Goliad.

To cross-interrog. No. 6 she answers: I must have been about 17 or 18 years of age at the time of my father's death, and I must have been about 25 or 26 years of age at my mother's death.

402 To cross-interrog. No. 7 she answers: We moved in 1835 from Goliad to Matamoras.

To cross-interrog. No. 8 she answers: Yes, sir; I am positive.

To cross-interrog. No. 9 she answers: I am answering, I understand, in the office of Mr. Mason, in the presence of and before Edward Miles, a notary public; Mr. M. R. Pereida, interpreter, in the city of San Antonio or San Fernando de Bexar, Texas; office on the corner of Soledad and Houston streets, upstairs.

PILAR GARCIA DE SABARIEGO.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed before me this 4th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar County, Texas.

Deposition of MARIANO CABRERO, a witness produced and sworn as aforesaid on behalf of the plaintiffs:

To direct interrog. No. 1 he answers: My name is Mariano
403 Cabrero; I live in La Bahia, Texas.

To direct interrog. No. 2 he answers: I was born in La Bahia, in the year 1812.

To direct interrog. No. 3 he answers: I have lived there all my life until the present time.

To direct interrog. No. 4 he answers: Yes, sir; I knew Francisco Garcia and his family in La Bahia; I knew them well.

To direct interrog. No. 5 he answers: D'na Gertrudes Berrera.

To direct interrog. No. 6 he answers: D'na Pilar was then only a child.

To direct interrog. No. 7 he answers: They are both dead.

To direct interrog. No. 8 he answers: Yes, sir; I knew Pilar Garcia well when she lived with her parents in La Bahia, and spoke to her often there.

To direct interrog. No. 9 he answers: I know Manuel Sabariego; knew him in La Bahia before the cholera.

To direct interrog. No. 10 he answers: Pilar Garcia married Manuel Sabariego.

To direct interrog. No. 11 he answers: She [was] married before the cholera in La Bahia to Manuel Sabariego.

404 To direct interrog. No. 12 he answers: She married before Francisco Garcia's death.

To direct interrog. No. 13 he answers: Francisco Garcia died in La Bahia, in the year 1834, of the cholera

To direct interrog. No. 14 he answers: I have stated that he died of cholera, in 1834, which disease was epidemic that year.

To direct interrog. No. 15 he answers: It was before Santa Anna came to Texas.

To direct interrog. No. 16 he answers: I saw them in Matamoras.

To direct interrog. No. 17 he answers: I do not recollect when I saw them there; it must have been about 18 years after they had left La Bahia.

To direct interrog. No. 18 he answers: It was here in San Antonio last month and this month.

To direct interrog. No. 19 he answers: Yes, sir; she is the same Pilar Garcia.

To direct interrog. No. 20 he answers: Here in San Antonio, and his wife is also here.

405 To direct [interrog.] No. 21 he answers: He was a merchant, doing business there, and by reason of such business the people of the place came often into contact with him and his family.

To cross-interrog. No. 1 he answers: I knew him first and his family ever since I was a boy. He lived there with his family until his death. I am positive.

To cross-interrog. No. 2 he answers: Don Francisco Garcia died in La Bahia in 1834 of the cholera. His wife died in Matamoras. I do not recollect in what year she died. I was at the house when she died.

To cross-interrog. No. 3 he answers: Yes; he died in 1834; that I do not know as to what year she died.

To cross-interrog. No. 4 he answers: She was born here in San Antonio. I do not recollect in what year.

406 To cross-interrog. No. 5 he answers: She married Don Manuel Sabariego in La Bahia. I do not remember the year.

To cross-interrog. No. 6 he answers: I do not remember the year when she married.

To cross-[interrog.] No. 7 he answers: Yes, sir.

To cross-interrog. No. 8 he answers: I do not recollect how many years after their marriage that they left for Mexico.

To cross-interrog. No. 9 he answers: They lived in Matamoras, and from there they left for San Luis Potosi.

To cross-interrog. No. 10 he answers: I saw her next in Matamoras after they left La Bahia, and saw her last in San Antonio.

To cross-interrog. No. 11 he answers: No, sir; I did not see him in Texas until now.

To cross-interrog. No. 12 he answers: I saw her in Matamoras after Santa Anna was here—I mean after she had left La Bahia.

407 To cross-interrog. No. 13 he answers: He continued selling goods until his death.

To cross-interrog. No. 14 he answers: I do not know whether he was then, in the year 1820 or 1821, engaged in business or not.

To cross-interrog. No. 15 he answers: Yes; he was an officer, but I do not know how long he was an officer.

To cross-interrog. No. 16 he answers: She must have been about 16 years of age.

To cross-interrog. No. 17 he answers: I am answering here in the office on the corner about 100 yards north of the court-house in San Antonio—office upstairs—in presence of of Manuel Sabariego, Ygnio Salaza, Dionicio Flores, Mr. M. R. Pereida, interpreter; before a notary public, Mr. Miles, I am told.

his
MARIANO x COBRERA.
mark.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed before me this 4th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar County, Texas.

408 At this point the proceedings herein *was*, by expiration of the day, adjourned to November 5th, 1881, at 9 o'clock a. m., at this same place.

[Seal Notary Public, Bexar Co., Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

NOVEMBER 5TH, 1881.

The proceedings resumed according to adjournment at the time and place aforesaid.

Deposition of Ygnio Salazar, a witness produced and sworn as aforesaid on behalf of the plaintiffs.

To direct interrogatory No. 1 he answers: My name is Ygnio Salaza; I live in La Bahia, Texas.

To direct interrog. No. 2 he answers: I was born in La Bahia, Texas, in the year 1812.

To direct interrog. No. 3 he answers: I have lived the most of my life in La Bahia, Texas. I also have lived about fourteen years opposite Matamoras, but now I am again living in La Bahia.

To direct interrog. No. 4 he answers: Yes, sir; I knew Francisco Garcia and his family; they lived in La Bahia, Texas. I do not recollect when I first knew them, but I was a boy at the time; I knew them well.

To direct interrog. No. 5 he answers: The wife of Francisco Garcia was named D'na Gertrudes Barrera.

To direct interrog. No. 6 he answers: D'na Pilar Garcia was their only child.

To direct [interrog.] No. 7 he answers: Francisco Garcia and his wife are both dead.

To direct interrog. No. 8 he answers: Yes, sir. I knew her well; have talked to her often.

To direct interrog. No. 9 he answers: Yes, sir. I know him, but do not recollect when or what year I first knew him. I knew him in La Bahia, Texas.

To direct interrog. No. 10 he answers: Yes, sir; she married.

To direct interrog. No. 11 he answers: She married Don Manuel Sabariego in the year 1833, at La Bahia, Texas.

To direct interrog. No. 12 he answers: She married before the death of Francisco Garcia, which occurred in the year of the cholera.

410 To direct interrog. No. 13 he answers: Francisco Garcia died in La Bahia the year of the cholera.

To direct interrog. No. 14 he answers: Yes, sir; there was an epidemic; the cholera was prevailing and Francisco died during that time of that disease.

To direct interrog. No. 15 he answers: It was before Santa Anna came to Texas.

To direct interrog. No. 16 he answers: I saw her in Matamoras and her husband also.

To direct interrog. No. 17 he answers: I cannot remember when I saw them; many times when I was living opposite Matamoras.

To direct interrog. No. 18 he answers: I next saw them in San Antonio, this month.

To direct interrog. No. 19 he answers: She is the same Pilar Garcia who married Don Manuel Sabariego.

To direct interrog. No. 20 he answers: I saw both here in San Antonio the last time.

411 To direct interrog. No. 21 he answers: Yes, sir; he was engaged in selling goods, and by reason of such business we [and] all [the] people of La Bahia went to his store to buy goods.

To cross-interrog. No. 1 he answers: I first knew Francisco Garcia in La Bahia. He continued to live in La Bahia with his family until he died. Yes, sir; I am positive.

To cross-interrog. No. 2 he answers: Francisco Garcia died in La Bahia in the year of the cholera. His wife died in Matamoras. I do not recollect the year, but I was living opposite to Matamoras at that time.

To cross-interrog. No. 3 he answers: Francisco Garcia. I do not remember the year when he (F. Garcia) and his wife died.

To cross-interrog. No. 4 he answers: I know that Pilar Garcia was born in San Ant'o, but do not know the year.

To cross-interrog. No. 5 he answers: She married Don Manuel Sabariego in the year 1833.

412 To cross-interrog. No. 6 he answers: No, sir; she did not marry in 1835; she married in 1833.

To cross-interrog. No. 7 he answers: I do not remember how soon after their marriage that they left for Mexico—maybe two years.

To cross-interrog. No. 8 he answers: I cannot say positively; one or two years after.

To cross-interrog. No. 9 he answers: I saw them living afterwards in Matamoras. I know also that they lived in San Luis Potosi.

To cross-interrog. No. 10 he answers: I saw them in Matamoras.

To cross-interrog. No. 11 he answers: Since they left for Mexico; I did not see him again in Texas until now.

To cross-interrog. No. 12 he answers: I do not recollect how long ago it was when I saw her last.

To cross-interrog. No. 13 he answers: I do not know when he commenced selling goods; he sold goods and merchandise until he died.

413 To cross-interrog. No. 14 he answers: I do not remember whether in the year 1820 he was selling goods or not.

To cross-interrog. No. 15 he answers: I heard people calling him Lieut. Garcia, but I do not know in those years whether he was an officer or not.

To cross-interrog. No. 16 he answers: Pilar Garcia was about (15 or 16) fifteen or sixteen years old at that time.

To cross-interrog. No. 17 he answers: I answer them in San Antonio; I do not know in whose office; it is near the court-house, upstairs, and near the bridge where the street-cars cross; Don Pereida, Don Sabariego, Dyonicio Flores, and before the notary public; Don Rafael Pereida is the interpreter; Senor Miles is the notary public.

his
YGINIO x SALAZAR.
mark.

R. M. PEREIDA,
Sworn Interpreter.

Subscribed and sworn to before me this 5th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

414 Deposition of Guadalupe Guerrero, a witness produced and sworn as aforesaid on behalf of the plaintiffs.

To direct interrogatory No. 1 he answers: My name is Guadalupe Guerrero; I live in the Mission San José, Bexar county, Texas,

To direct interrog. No. 2 he answers: I was born in La Bahia, now called Goliad, Texas. I do not know the date of my birth, but I do know that I was born towards the close of the year 1812. At the time of the big cholera I must have been about sixteen years of age, more or less. I do not recollect how old I was when Santa Anna came to Texas.

To direct interrog. No. 3 he answers: When my famil*ies* left La Bahia; then I also left. From the time of my birth up to the time the Americans arrived at that place I continued to live in La Bahia.

To direct interrog. No. 4 he answers: I have lived here in San Antonio and at the Mission San José, Bexar Co., Texas.

415 To direct interrog. No. 5 he answers: I knew Francisco Garcia and his wife. His wife was Gertrudes Barrera. I never knew them to have any othe- children than Pilar Garcia. Both of them are dead. Francisco Garcia died in La Bahia, and Gertrudes Barrera died in Matamoras, Mexico.

To direct interrog. No. 6 he answers: I know Manuel Sabariego. He was married to D'na Pilar Garcia. I do not recollect the date when she married him, but I know it was about one year, more or less, before the big cholera.

To direct interrog. No. 7 he answers: Before Francisco Garcia died.

To direct interrog. No. 8 he answers: He had his store in La Bahia when he sold goods, and the only store there then. Because of the nature of that business at that store all the people went there to buy, and came into contact with him and his family.

To direct interrog. No. 9 he answers: About the 2d or 3rd
416 day of last October I saw them here in San Antonio for the first time since they left La Bahia.

To direct [interrog.] No. 10 he answers: They are the same persons I knew in La Bahia, and are man and wife.

To cross-interrogatory No. 1 he answers: I do not recollect the year I first knew them, but I knew them before Pilar Garcia married. I am certain Don Francisco Garcia lived there with his family until his death.

To cross-interrog. No. 2 he answers: Francisco Garcia died in the year of the big cholera—of cholera. I do not recollect the year, but by finding out when the big cholera was you can find out the time.

To cross-interrog. No. 3 he answers: I do not know how old I am, but I was born in 1812. You can make the calculation.

To cross-interrog. No. 4 he answers: I do not know how old she was, but she was a mere child when I first knew her.

417 To cross-interrog. No. 5 he answers: I do not know whether she was born here or in La Bahia. I do not know how old she is.

To cross-interrog. No. 6 he answers: I am not certain how old she was. She may have been about fourteen or fifteen years.

To cross-interrog. No. 7 he answers: I saw her in La Bahia some months, or perhaps one year, after she was married, and did not see her any more until now here in San Antonio this month and last month.

To cross-interrog. No. 9 (8 int. being omitted): I do not know the year they left for Mexico. At the time of their departure I was in Victoria, Texas.

To cross-interrog. No. 10 he answers: I know that she died in Matamoras, but I do not know in what year.

To direct interrog. No. 11 he answers: It may have been two or three years. I am not certain whether it was that length of time or not.

418 To cross-interrog. No. 12 he answers: Some two or three years after. I am not positive.

To cross-interrog. No. 13 he answers: I am answering in San An-

tonio, on Solidad street, in one of the houses of D'na Cliepita Gorgza, upstairs in the corner, where the turn-table of the street-cars is.

In presence of notary public, Mr. E. Miles, Don Rafael Pereida, interpreter; also Don Manuel Sabariego and Dyonisio Flores.

his
GUADALUPE x GUERRERO.
mark.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed before me this 5th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

419 Deposition of Dionisio Flores, a witness produced and sworn as aforesaid on behalf of the plaintiffs.

To direct interrogatory No. 1 he answers: My name is Dionisio Flores. I live in La Bahia, Texas. I was born in La Bahia, Texas, in the year 1820.

To direct interrog. No. 2 he answers: I lived in La Bahia, Texas.

To direct interrog. No. 3 he answers: In Matamoras.

To direct interrog. No. 4 he answers: In La Bahia.

To direct interrog. No. 5 he answers: Yes, sir. I knew him and his family. They lived in La Bahia in 1833 and 1834. They lived in La Bahia.

To direct interrog. No. 6 he answers: I knew them for a long time well. I went to their house very often.

To direct interrog No. 7 he answers: Gertrudes Barrera.

To direct interrog. No. 8 he answers: They are both dead.

420 To direct interrog. No. 9 he answers: The only child that I knew them to have was D'na Pilar Garcia.

To direct interrog. No. 10 he answers: I know her very well and spoke to her frequently while she was with her parents in La Bahia.

To direct interrog. No. 11 he answers: In La Bahia.

To direct interrog. No. 12 he answers: In Matamoras, Mexico.

To direct interrog. No. 13 he answers: I know Manuel Sabariego; knew him first about the year 1832 or 1833.

To direct interrog. No. 14 he answers: Yes, sir; she is married. She married in 1833 to Manuel Sabariego, in La Bahia, Texas.

To direct interrog. No. 15 he answers: She married in 1833, in La Bahia, Texas, to Manuel Sabariego.

To direct interrog. No. 16 he answers: Yes, sir; they are still living together as husband and wife.

421 To direct interrog. No. 17 he answers: They were married before the death of Fran'co Garcia.

To direct interrog. No. 18 he answers: I saw them in Matamoras about the latter part of the year 1836 or the beginning of 1837. I

next saw them in Monterey, Mexico, when they were on their way to the interior of Mexico, and, lastly, I saw them here in San Antonio in October last and in this month, November.

To direct interrog. No. 19. he answers: From the year 1836 to 1846, or about. I saw them in Matamoras. I saw them often at their home in the town and at their farm.

To direct interrog. No. 20 he answers: I saw them in Monterey towards the close of the year 1846.

To direct interrog. No. 21 he answers: Here, in San Antonio, in the months of October and November of this year.

To direct interrog. No. 22 he answers: They are the same persons.

422 To cross-interrog. No. 1 he answers: I was sixty-one years of age in last April.

To cross-interrog. No. 2 he answers: I left in June, 1836, for Matamoras.

To cross-interrog. No. 3 he answers: Don Francisco Garcia died in June, 1834. Dona Gertrudes Barrera died in about the year 1842 or 1843.

To cross-interrog. No. 4 he answers: Yes; he died [in] 1834, and she died in 1842 or 1843.

To cross-interrog. No 5 he answers: I do not know when she was born. I believe her to be older than I am. I do not know where she [was] born. I believe her to have been about sixteen years of age when she married.

To cross-interrg. No 6 he answers: I was in La Bahia. I do not know how old she is now.

To cross-interrog. No 7 he answers: The time I knew him—always. I knew him in La Bahia — to the time of his death.

423 To cross-interrog. No. 8 he answers: In La Bahia.

To cross-interrog. No. 9 he answers: Because I was in La Bahia when they married; I heard of the marriage at the time.

To cross-interrog. No. 10 he answers: About two years before the revolution; they were married about four years before the independence of Texas.

To cross-[interrog.] No. 11 he answers: I am answering before E. Miles, Esqr., a notary public, in San Antonio, on the corner where the street-car turn-table is, in presence of Don Rafael Pereida, interpreter, and Don Manuel Sabariego.

his
DIONICIO x FLORES.
mark.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed before me this 5th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

424 At this point the proceedings herein *was*, by expiration of the day, adjourned to November 7th, 1881, at 9 o'clock a. m., at the same place.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

The proceedings herein resumed according to adjournment, at the time and place fixed, viz., Nov. 7, 1881.

Deposition of Juana Huron, a witness produced and sworn as aforesaid on behalf of the plaintiffs.

To direct interrogatory No. 1 she answers: My name is Juana Huron; I live in Mission San Juan.

To direct interrog. No. 2 she answers: I was born in La Bahia; I do not know in what year I was born; I was about fifteen or sixteen years of age at the time of the cholera; I do not know how old I was when Santa Anna came to Texas.

To direct interrog. No. 3 she answers: I lived in La Bahia from the time of my birth until the Americans came here.

425 To direct interrog. No. 4 she answers: Here, in San Antonio, and in Mission San Juan, Bexar county, Texas.

To direct interrog No. 5 she answers: I knew Don Francisco Garcia and his wife, D'na Gertrudes Berrera, in La Bahia; Pilar Garcia was their only child; they both are dead.

To direct interrog. No. 6 she answers: I know Manuel Sabariego; he married, in La Bahia, to D'na Pilar Garcia; he married before the cholera; I do not know; long before the cholera; it may be two or three years—rather less than more.

To direct interrog. No. 7 she answers: It was before Francisco Garcia's death.

To direct interrog. No. 8 she answers: He had a very large store, and the only store there; as there was no other store the people came frequently in contact with him and his family.

To direct interrog. No. 9 she answers: Did not see them again until last month and this month.

426 To direct interrogatory No. 10 she answers: Yes, sir; they are the same persons.

To cross-interrog. No. 1 she answers: I knew them when I first had use of reason, and I am certain that he lived there with his family all the time until he died.

To cross-interrog. No. 2 she answers: He died the year of the cholera of cholera. I do not know the year or what year it was, but it was the year of the cholera.

To cross-interrog. No. 3 she answers: I do not know how old I am now. The year of the cholera I must have been about fifteen or sixteen years of age.

To cross-interrog. No. 4 she answers: I knew Pilar Garcia when she was small. I do not know how old she was at that time.

To cross-interrog. No. 5 she answers: Pilar Garcia was born in

La Bahia. I do not know how old she is now. Instead of La Bahia I meant she was born in San Antonio, Bexar county, T'x's.

427 To cross-interrog. No. 6 she answers: She was about fifteen or sixteen years of age.

To cross-interrog. No. 7 she answers: The last time I saw her was in La Bahia when the Americans went there. I did not see her again until I saw her here in San Antonio during this & the past month [of] this year.

(8th int'g. omitted.)

To cross-interrog. No. 9: I do not know the year they left for Mexico.

To cross-[interrog.] No. 10 she answers: I do not know in what year she died.

To cross-interrogatory No. 11 she answers: I do not know how long after her death; from one to two years.

To cross-interrog. No. 12 she answers: It may have been from three to four years.

To cross-interrog. No. 13 -he answers: I am answering upstairs in Leonardo Garza's house, where the street-car turn-table is, on Soledad street, in presence of Edward Miles, notary public;

428 Rafael Pereida, interpreter; Estevan Huron. Don Manuel Sabariego has just entered.

her
JUANA x HURON.
mark.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed before me this 7th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

429 Deposition of Estevan Huron, a witness produced and sworn as aforesaid on behalf of the plaintiffs.

To direct interrogatory No. 1 he answers: My name is Estevan Huron. I live opposite the Mission San Juan, Bexar Co., Texas.

To direct interrog. No. 2 he answers: I was born in La Bahia, Texas. I do not know in what year. I was about thirteen or fourteen years old at the time of the big cholera. When Gen'l Santa Anna came to Texas I may have been about seventeen or eighteen years of age. I am not positive.

To direct interrogatory No. 3 he answers: I continued to reside there until the American invasion.

To direct interrog. No. 4 he answers: Here in Bexar county, in the Mission San Juan.

To direct interrog. No. 5 he answers: Yes, sir; I knew them. D'na Gertrudes Barrera was his wife. D'na Pilar Garcia was their only child. Francisco Garcia and his wife are both dead.

430 To direct interrog. No. 6 he answers: I knew Manuel Sabariego. He married to Pilar Garcia in La Bahia, Texas. I do not know in what year he married, but the year of the big cholera he already was married.

To direct interrog. No. 7 he answers: His marriage was before the death of Francisco Garcia.

To direct interrog. No. 8 he answers: Ever since I knew him. I always knew him with a store, selling goods; as the place was very small, & his the only store, we frequently came into contact with himself and his family.

To direct interrog. No. 9 he answers: Here in San Antonio, in October and November of this year.

To direct interrog. No. 10 he answers: Yes; they are the same persons who got married in La Bahia then.

To cross-interrogatory No. 1 he answers: Ever since I had the use of reason. I am certain that he continued to live there until he died.

431 To cross-interrog. No. 2 he answers: The year of the cholera—of cholera; I do not know what year it was; he died during the cholera.

To cross-interrog. No. 3 he answers: I do not know how old I am.

To cross-interrog. No. 4 he answers: She was a mere child then.

To cross-interrog. No. 5 he answers: She was born here in San Antonio; I do not know how old she is now.

To cross-interrog. No. 6 he answers: She was then about fifteen or sixteen years of age.

To cross-interrog. No. 7 he answers: About the time of the American invasion; I had not seen her since then until here in San Antonio.

(8 int'g. omitted.)

To cross-interrog. No. 9 he answers: I do not know in what year they left.

To cross-interrog. No. 10 he answers: I do not know in what year.

432 To cross-interrog. No. 11 he answers: In about two or three years after.

To cross-interrog. No. 12 he answers: About two or three years.

To cross-interrog. No. 13 he answers: I am answering in house of Don Leonardo Garza, upstairs, on Soledad street, where the street-cars cross, in presence of Mr. Miles, notary public; Mr. Rafael Pereida, interpreter.

his
ESTEVAN x HURON.
mark.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed before me this 7th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

433 Deposition of Maria de Jesus Valdez, a witness produced and sworn as aforesaid on behalf of the plaintiffs.

To direct interrogatory No. 1 she answers: My name is Maria de Jesus Valdez; I live in San Ant. de Bexar, on S. Flores street.

To direct interrog. No. 2 she answers: I was born here in San Antonio de Bexar in the year 1813; you can make your own calculations as to my age then.

To direct interrog. No. 3 she answers: I have not stated that I was born in La Bahia; I have answered that I was born in San Antonio, and was about twelve years old when I went to La Bahia, & continued to live there some thirteen years or more, but cannot now tell how many years.

To direct interrog. No. 4 she answers: Here in San Antonio.

To direct interrog. No. 5 she answers: Yes, sir; I knew them. D'na Gertrudes Berrera was his wife; Pilar Garcia was their only child; they both are dead.

434 To direct interrog. No. 6 she answers: Yes, sir; I knew Manuel Sabariego; he married in La Bahia, Texas, to Pilar Garcia in the year 1833.

To direct interrog. No. 7 she answers: It was before the death of Francisco Garcia.

To direct interrog. No. 8 she answers: He had a store and sold goods. By nature of his business we came into contact frequently with him & his family.

To direct interrog. No. 9 she answers: Since they left La Bahia I had not seen them until now in San Antonio, in this month and October last, 1881.

To direct interrogatory No. 10 she answers: They are the same persons I then knew.

To cross-interrogatory No. 1 she answers: I may have been fifteen or sixteen years of age when I first knew them; I do not know how old exactly I was; I was then very young; Don Francisco Garcia continued to live there with his family until he died, I am certain.

435 To cross-interrog. No. 2 she answers: Francisco Garcia died in 1834.

To cross-interrog. No. 3 she answers: I am now about (68) sixty-eight years of age.

To cross-interrog. No. 4 she answers: She may have been about ten years old.

To cross-interrog. No. 5 she answers: She was born in San Antonio. I do not know how old she is now.

To cross-interrog. No. 6. she answers: I do not know how old she was then—I presume about fifteen.

To cross-interrog. No. 7 she answers: I saw her in La Bahia at her home—after the death of her father; since then I had not seen her until now.

To cross-interrog. No. 9 (8 int'g. omitted): Yes, sir; they left for Matamoras, Mexico, in 1855.

To cross-interrog. No. 10 she answers: I do not know the year.

To cross-interrog. No. 11 she answers: About two years or one year, more or less.

436 To cross-interrog. No. 12 she answers: Two years, more or less.

To cross-interrog. No. 13 she answers: I am answering them in San Antonio de Bexar, upstairs, on the corner of Soledad street where the street cars cross, in presence of Mr. Miles, notary public. Mr. Pereida, interpreter; also Don Manuel Sabariego and no other person.

MARIA DE JESUS VALDEZ.

R. M. PEREIDA,
Sworn Interpreter.

Sworn to and subscribed before me this 7th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

437 THE STATE OF TEXAS, *County of Bexar:*

I, Edward Miles, a duly appointed, qualified, and commissioned notary public within and for the county of Bexar and State of Texas, do hereby certify that at the times and place aforesaid Manuel Sabariego, Pilar Garcia de Sabariego, Mariano Cabrero, Ygnio Salazar, Guadalupe Guerrero, Dionisio Flores, Juana Huron, Estevan Huron, Maria de Jesus Valdez, witnesses on behalf of the plaintiffs in the above-entitled cause, were each by me duly sworn, before any question was put to them, to tell the truth, the whole truth, and nothing but the truth relative to said cause, and that the answers of each of said witnesses to the accompanying direct interrogatories and cross-interrogatories were taken down in writing by me, and the deposition of each of them, as above set forth, was read over to and signed by them before me at the times and place aforesaid.

And I further certify that R. M. Pereida was by me selected and duly sworn to true interpretation of the direct interrogatories and cross-interrogatories propounded to the above-named wit-
438 nesses and of their answers thereto, and that the said Pereida was duly sworn as aforesaid before any question was propounded to any one of said witnesses, and I hereby certify that the said Pereida is a person duly skilled and qualified in the English and Spanish languages to make such interpretation.

Given under my hand and official seal, at my office in San Antonio, this 7th day of November, A. D. 1881.

[Seal Notary Public, County of Bexar, Texas.]

EDWARD MILES,
Notary Public, Bexar Co., Texas.

439 Endorsed: No. 53. Manuel Sabariego and Pilar Garcia de Sabariego *vs.* Mary A. Maverick *et al.* Depositions of witnesses in behalf of plaintiffs. Opened and filed Dec. 16, 1881. W. C. Robards, clerk.

440 Direct interrogatories to Maraquita Losoya in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and Mary A. Maverick *et al.* are defendants. In the circuit court of the United States, at San Antonio, western district of Texas.

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Interrogatories to Maraquita Losoya. Filed May 31, 1882. W. C. Robards, clerk, by D. Beall, deputy.

441 *Def'd's' Int'g's to Marquita Losoya. Filed* 31 *May*, 1883.

Interrogatories to be propounded to Mariquita Losoya, a witness for the defendants.

Int'g. 1st. What is your name, age, and where were you born?

Int'g. 2d. What was the name of your father; is he living or dead; and if dead, when did he die?

Int'g. 3d. What was the name of your mother; and, if dead, when did she die?

Int'g. 4. If you have said that your father's name was Venturo Losoya and your mother's name was Concepcion Charlé, then please state whether your mother was married before she married your father, and to whom she was previously married.

Int'g. 5. If you have said, in answer to the last interrogatory, that your mother was married to Miguel Gortarri before she was married to Venturo Losoya, then please state now whether she had any children by her first marriage, and give their names.

442 Int'g. 6th. If you have said, in answer to the last interrogatory, that one of the children of Concepcion Charlé by her first marriage was named Miguel (Miguel Gortarri), then please state who said Miguel married.

Int'g. 7th. If you say the last-named Miguel Gortarri married Candelairo de la Garza, then please state also where said Candelairo was born, who her parents were, and whether she and her parents came to live in San Antonio, and when.

Int'g. 8th. If you say that Candalairia came to live in San Antonio, then state also whether they died in San Antonio, when they died, with whom and where they lived up to the time of their deaths.

Int'g. 9th. When and where did Miguel Gortarri die? When and where did his wife, Candelaria de la Garza, die, and when and where did Concepcion Charlé die?

Int'g. 10th. Did Concepcion Charlé own or claim any property during her lifetime? If so, how did she dispose of it? And if she gave any to her son, Miguel Gortarri, then please state that

443 fact and the time when, in answer to this interrogatory.

Int'g. 11th. Was not Miguel Gortarri your step-brother, and was he or was he not sometimes called Miguel Losoya?

Int'g. 12th. State, if you know, whether Concepcion Charlé gave any property to Candalaria de la Garza after her husband's, Miguel, death? If so, what, among other property, did she give to Candalaria and her children, or either?

Int'g. 13th. If you have heretofore said that Miguel Gotarri is dead, then please state now how he died.

Int'g. 14th. If, in answer to the last interrogatory, you have said that Miguel Gotarri was killed by the Indians, then please state now where he was killed and how long he had been living at the place when he was so killed.

Int'g. 15th. Did you know Miguel Losoya, Manuel Losoya, and Cipriano Losoya, and how were they related to each other, if you know?

Int'g. 16th. If you have said that you knew Miguel Losoya,
444 then please state how said Miguel was related to you or to your father; state also how far back you can remember.

Int'g. 17th. In answer to this interrogatory state any other matter that you may know, in relation to the subject-matter of these interrogatories, as fully as if you had been specifically interrogated thereto.

WAELDER & UPSON &
HOUSTON BROS.,
Atty's for Defendants.

Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs.* Mary A. Maverick *et als.* Interrogatories to Maraquita Losoya. Filed May 31, 1882. W. C. Robards, cl'k, by D. Beall, deputy.

445 Cross-interrogatories to Maraquita Losoya, propounded to her by the defendants, in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and Mary A. Maverick *et al.* are defendants. In the circuit court of the United States at San Antonio, western district of Texas.

Endorsed: No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.*. Cross-interrogatories to Maraquita Losoya. Filed June 6, 1883. W. C. Robards, clerk.

446 *Cross-Int'g to Maraquita Losoya. Filed 6th June,* 1883.

In the Circuit Court of the United States for the Western District of Texas, Sitting at San Antonio.

PILAR GARCIA DE SABARIEGO *et als.*

vs.

MARY A. MAVERICK *et als.*

Cross-interrogatories to be propounded to Marequita Losoya.

1st cross-int'g. In what year were you born and in what year were you married, if you were ever married?

2d cross-int'g. Have you any written genealogy of either of the families of Miguel Losoya, Venturo Losoya, Concepcion Charlé, Miguel Gortarri, or Candelario de la Garza, contained in any old Bible, or otherwise?

3d cross-int'g. Is your memory at all impa-red; and state, in this

connection, if you can remember dates and persons as well now as you ever could.

4th cross-int'g. How old was your father when he died, and how old was your mother when she died?

447 5th cross-int'g. Please state how old the Miguel Losoya inquired of in the 15th and 16th direct interrogatories was at the time of his death.

6th cross-int'g. Was not this Miguel Losoya and Miguel Gortarri one and the same persons—that is to say, was not Miguel Gortarri a step-son of Venturo Losoya, and for this reason he was sometimes called Miguel Losoya?

7th cross-int'g. Was not Miguel Gortarri killed by the Indians in June, 1843?

8th cross-int'g. Is it not a fact that Miguel Gortarri was living nearly opposite the present post office, on Alamo plaza, at or about the time of his death?

9th cross-int'g. Did you ever visit the spot where Miguel Gortarri was killed by Indians, and was not this above Kampman's residence?

10th cross-int'g. Give your full and entire recollection of the time, place, and circumstances of the killing of Miguel Gortarri, and state in this connection your reccollection as to whether the party of Indians by whom he was killed was overtaken and punished or not.

448 11th cross-int'g. Is it not a fact that Candelaria de la Garza, the wife of Miguel Gortarri, went to Mexico with her children in 1842, or before the death of Miguel, and did not return to San Antonio until some time in 1847 or 1848?

12th cross-int'g. If, in answer to direct interrogatory No. 14, you have stated that Miguel Gortarri was living on the place where he was killed, then state fully and explicitly the situation of the place where he was killed, and if you say it was upon some one of the Valero suertes then give the name of the suerte, and by what suertes it was bounded, and you will also please state in this connection how far he was killed from the "muralla" or old Alamo wall, and in what direction from it.

13th cross-int'g. Do you know Ursula Gortarri de Arsienega? And if yea, state if she is not the only surviving child of Miguel Gortarri and Candelaria de la Garza?

14th cross-int'g. Was not Concepcion Charlé the grand-
449 mother and Miguel Gortarri the grandfather of Ur-ula Gortarri de Arcienega?

15th cross-int'g. Were not the children of Miguel Gortarri and Concepcion Charlé named Elizia, Miguel, and Santos? If yea, state if any of them are living.

16th Cross-int'g. Give the names of all the children by the marriage of Venturo Losoya with Concepcion Charlé, and state which of said children are now living.

17th cross-int'g. If, in answer to direct interrogatory No. 10, you say that Concepcion Charlé owned or claimed any property during

her lifetime, and that she disposed of it, then state how much she owned and how much she claimed.

18th cross-int'g. State fully all the lands owned by Concepcion Charlé during her lifetime, and give a description of the same as near as you can.

19th cross-int'g. You will please state how Concepcion Charlé became possessed of the lands you have testified to—whether by gift, devise, or descent, or whether it was community property; and if community, was it acquired during the first or
450 the second marriage?

20th cross-int'g. Did you ever see any of the title deeds to this property of Concepcion Charlé that you say she owned during her lifetime? If yea, were they they not placed among the archieves of Bexar?

21st cross-int'g. If you have stated that Concepcion Charlé gave any real property to her son, Miguel Gortarri, then you will please state whether such transfer was evidenced by writing and whether it was archieved.

22d cross-int'g. How often did Concepcion Charlé give property to her son, Miguel Gortarri, and was not the property she gave him situated on Alamo plaza, about where the Vance building now stands?

23d cross-int'g. You will please give a full description of the property given by Concepcion Charlé to her son, Miguel Gortarri; state where it was situated, the name of the property, and how it was bounded on the north, east, west, and south.

24th cross-int'g. Is not the property upon which you are
451 now living inherited by you through Concepcion Charlé, and is it not a part of the Cipriano Losoya suerte?

25th cross-int'g. State, if you know, where the north line of the Cipricano Losoya suerte ran, and if you do give your means of information.

26th cross-int'g. In what year did Concepcion Charlé ever give any land to Candelaria de la Garza and her children, or either? What property was it, how much was it, and *was* the deeds made in writing? State fully and explicitly.

27th cross-int'g. Give a full and particular discription of the property which Concepcion Charlé gave to Candelaria de la Garza and her children, or either; give its boundaries on all sides and state where it now is.

28th cross-int'g. From whom and how did Concepcion Charlé acquire the property that you say she gave to Candelaria de la Garza and her children, or either?

29th cross-int'g. Which died first—Concepcion Charlé or her husband, Venturo Losoya?

452 30th cross-interrogatory. Was the property which you say was given by Concepcion Charlé to Miguel Gortarri and Candelaria de la Garza given to them or either of them before or after the death of Venturo Losoya?

31st cross-int'g. What did Miguel Gortarri and Candelaria de la

Garza do with the property which you say was given to them by Concepcion Charlé? State fully as to both

32d cross-int'g. How many children of Candelaria de la Garza were living in 1847, and give their names?

33d cross-int'g. In what year did Candelaria de la Garza die?

34th cross-int'g. Is it not a fact that Miguel Gotarri has been separated from his wife and family some time before his death and that after his death none of his family were here to cultivate the place on which he was killed?

35th cross-int'g. With whom have you talked about this case? State fully what they said to you and what you said to them.

453 36th cross-int'g. Who has been present during the time of the taking of your deposition, and state if you have fully understood each question propounded to you?

37th cross-int'g. How often have you talked over the matters inquired of you here recently?

BERRY & ROSENHEIMER,
MASON & PASCHAL,
Att'ys for Plaintiffs.

Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs.* Mary A. Maverick *et als.* Cross-interrogatories to Mariquita Losoya. Filed June 6, 1883. W. C. Robards, c'lk.

454 Answers of Maraquita Losoya to direct and cross-interrogatories propounded to her in cause No. 53, wherein Pilar Garcia de Sabariego *et al.* are plaintiffs and Mary A. Maverick *et al.* are defendants. In the circuit court of the United States, at San Antonio, western district of Texas.

455 *Answers of Maraquita Losoya. Filed June*, 1882.

In the Circuit Court of the United States for the Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et als.*
vs.
MARY A. MAVERICK *et als.*

By virtue of a commission issued out of the circuit court of the United States for the western district of Texas, at San Antonio, I have caused Maraquita Losoya, a witness in the above-styled cause, to appear before me, and after by me being duly sworn to make true answers to the direct and cross-interrogatories hereto attached the said witness, Maraquita Losoya, not understanding the English language, J. P. Rodrigues was duly sworn as interpreter. The said witness, in answer to the several direct and cross interrogatories, answered as follows, to wit:

In answer to interrogatory No. 1 says: My name is Maraquita Losoya; my age is 70 years, and I was born in San Antonio, Texas.

In answer to interrogatory No. 2 says: My father's name was Venturo Losoya; he is dead; he did in San Antonio, Texas.

456 In answer to interrogatory No. 3 says: My mother's name was Concepcion Charlé; she died in July, 1860.

In answer to interrogatory No. 4 says: She was married to Miguel Gortarri before she married my father.

In answer to interrogatory No. 5 says: She had three children by Miguel Gortarri—Elijio Gortarri, Santa Go-tarri, and Miguel Gortarri.

In answer to interrogatory No. 6 says: Miguel Go-tarri married Candelaria de la Garza.

In answer to interrogatory No. 7 says: Candelaria de la Garza was born at Goliad, Texas. Her father was known by the name of José Antonio de la Garza, her mother was known as Gertrudes de la Garza, and her parents came to San Antonio to live. I know that Candelaira de la Garza lived here with them, married Miguel Gotarri in San Antonio, and she died here.

457 In answer to interrogatory No. 8 says: The parents of Candelaira de la Garza died in San Antonio. They lived with Candelara de la Garza, on the Alamo plaza, nearly in front of and opposite where the Meyer Hotel is now situated. Her mother died at that place; her father died on the ranch of Ursula Gotarri de Aruinega on the Chupideras. Candelaria de la Garza died at her house, on the Alamo plaza, after the death of her mother. Her father died after the death of Candelaria.

In answer to interrogatory No. 9 says: Miguel Gotarri was killed by the Indians in San Antonio, on the east side of the San Antonio river. I cannot locate the exact place. I cannot recollect the time he was killed. Candelaira de la Garza died at her house in San Antonio, on the west side of the Alamo plaza, but I cannot recollect in what year she died. Concepcion Charlé died at my house in San Antonio in the year 1860.

458 In answer to interrogatory No. 10 says: She owned one suerte of land, of which she sold a part to Mr. Maverick at one time, and about the same quantity at another time, of the balance she divided it into six lots, one of which she gave to Miguel Gotarri, wife, and children, one to Santa Gotarri, one to Felix Losoya, one to Juan Losoya, one to me, and one to Concepcion Charlé she kept for herself. I cannot recollect the exact time, but I think this occurred from 1842 to 1845.

In answer to interrogatory No. 11 says: Miguel Gotarri was my half-brother. He was very small when my mother married my father, and it is possible that he has been called Miguel Losoya.

In answer to interrogatory No. 12 says: Concepcion Charlé, after the death of Miguel Gortarri, gave to Candelaira and her children one of the lots referred to in my answer to direct interrogatory No. 10.

In answer to interrogatory No. 13 says: I have answered this in answer to interrogatory No. 9.

In answer to interrogatory No. 14 says: I cannot recollect when he was killed, but at the time of his death he was not living with his wife, but was living at the time at the house of Victoriana Herrera. He was killed while at work in the field, and his body

459 was taken to the house of Victoriana Herrera. I do not know how long he had been living at the house of Victoriana Herrera.

In answer to interrogatory No. 15 says: I never knew either Miguel Losoya, Manuel Losoya, or Cipriano Losoya; I know there were such persons, but I never knew them.

In answer to interrogatory No. 16 says: I do not know what relation Miguel Losoya was to my father; I cannot recollect dates, but can recollect events that occurred long before the capture of the Alamo by Santa Anna's troops.

In answer to interrogatory No. 17 says: I know of nothing in reference to the subject-matter of these interrogatories that I have not already fully stated.

Cross-interrogatories:

In answer to cross-interrogatory No. 1 says: I was born in the year 1813, but do not recollect the year of my marriage, but was married.

In answer to cross-interrogatory No. 2 says: I have not.

460 In answer to cross-interrogatory No. 3 says: My memory is good, but I cannot recollect dates; I can recollect persons and events.

In answer to cross-interrogatory No. 4 says: I do not recollect how old my father was when he died; I have been told my father was seventy-five years old when he died; I have been told my mother was seventy-five years old when she died.

In answer to cross-interrogatory No. 5 says: I have answered that I know nothing of him, and consequently do not know where he died.

In answer to cross-interrogatory No. 6 says: I know nothing of Miguel Losoya.

In answer to cross-interrogatory No. 7 says: I have already answered that he was killed by the Indians, but I cannot recollect the date of the killing.

In answer to cross-interrogatory No. 8 says: His property was situated there, but he was not living there, but living at the house of Victoriana Herrera.

In answer to cross-interrogatory No. 9 says: I did not; I
461 do not know the spot or exact locality where he was killed.

In answer to cross-interrogatory No. 10 says: I was not here at the time the killing took place, and only know what others told me when I returned. I do not know whether the Indians charged with the killing were pursued or not.

In answer to cross-interrogatory No. 11 says: Miguel took his wife and family to Mexico and returned; they were in Mexico when he was killed; some time after his death they returned to San Antonio. I do not recollect the dates of any of these events.

In answer to cross-interrogatory No. 12 says: I have already answered that I was not here when he was killed; that I did not know the exact locality of the killing; consequently I cannot state any further fact connected with the killing or the locality.

In answer to cross-interrogatory No. 13 says: I know her; she is their only surviving child.

In answer to cross-interrogatory No. 14 says: Concepcion
462 Charlé was the grandmother, and Miguel Gortarri, the father of the Miguel Gortarri heretofore referred to, was the grandfather of Ursula Gortarri de Arcienega.

In answer to cross-interrogatory No. 15 says: They were; all of them are dead.

In answer to cross-interrogatory No. 16 says: Felix Losoya, Torebio Losoya, Maraquita Losoya, Polinario Losoya, Juanita Losoya, Juan Losoya, Isaac Losoya, [and] Bernaldina Losoya were the children of Concepcion Charlé and Venturo Losoya, and I am the only one now alive.

In answer to cross-interrogatory No. 17 says: I have already answered that she claimed or owned one suerte.

In answer to cross-interrogatory No. 18 says: The land on which the home of Mr. Maverick was situated was adjoining or very close to the suerte owned by Concepcion Charlé; I think there was a ditch dividing the lands of each; I cannot now give a more definite description.

In answer to cross-interrogatory No. 19 says: She inherited it or received it as a gift from some of her relatives, but I do not recollect from whom; she acquired this property — the death of her
463 first husband and after the death of my father.

[In] answer to cross-interrogatory No. 20 says: I do not recollect seeing any of the papers in connection with that title.

In answer to cross-interrogatory No. 21 says: I have already answered that the property was given by her to Candelaria de la Garza and her children after the death of Miguel Gortarri. I have no recollection of seeing any papers conveying the title to such property; deeds may have been executed and recorded, but of that I know nothing, or do not now recollect anything.

In answer to cross-interrogatory No. 22 says: She gave her son, Miguel Gortarri, one lot, situated nearly in front of the ice factory, but not extending to the Alamo plaza, and not the lot on which the Vance buildings now stand. He owned the property situated and fronting on the plaza at the time that lot was given him.

In answer to cross-interrogatory No. 23 says: The property she gave to Miguel Gortarri is the lot I have mentioned in front of the ice factory, bounded north by the property then owned by Concepcion Charlé, on the east by property of Jesus Cantee, on
464 the south by an alley, and on the west by Losoya street.

In answer to cross-interrogatory No. 24 says: The property on which I am living I inherited from my mother, Concepcion Charlé, but I do not know whether it is a part of the Cipriano Losoya suerte or not.

In answer to cross-interrogatory No. 25 says: I do not know anything about the Cipriano Losoya suerte.

In answer to cross-interrogatory No. 26 says: I have already answered, in the answer to direct interrogatory No. 10, that I think it was from 1842 to 1845, and one of the six lots left, after two pieces

had been sold to Mr. Maverick, out of the suerte. I do not know what papers passed to give title.

In answer to cross-interrogatory No. 27 says: I can give no better description than I have already given in my answer to cross-interrogatory No. 18.

In answer to cross-interrogatory No. 28 says: She acquired the property from her mother, Maria Estrada.

In answer to cross-interrogatory No. 29 says: Venturo Losoya died first.

465 In answer to cross-interrogatory No. 30 says: It was given to them many years after the death of Venturo Losoya.

In answer to cross-interrogatory No. 31 says: They sold the land to Jesus Cantee with the consent of my mother.

In answer to cross-interrogatory No. 32 says: I think all the children were living in 1847.

In answer to cross-interrogatory No. 33 says: I do not recollect.

In answer to cross-interrogatory No. 34 says: They were absent at the time of his death, but afterwards lived on the place, cultivated it, and then sold it.

In answer to cross-interrogatory No. 35 says: I have talked to no one about this case.

In answer to cross-interrogatory No. 36 says: No one but myself, Mr. Rodriguez, and the officer taking my answers. I have fully understood all the questions propounded.

In answer to cross-interrogatory No. 37 says: I have talked
466 with no one on the subject.

her
MARAQUITA x LOSOYA.
mark

Witness:
J. P. RODRIGUEZ.

Sworn to and subscribed before me this the 8th day of June, A. D. 1883.

[SEAL.] GEO. R. DASHIELL,
Notary Public, Bexar Co.

THE STATE OF TEXAS, *County of Bexar:*

I, Geo. R. Dashiell, a notary public in and for said county, do hereby certify that the foregoing statement made by me is true, and that the answers of the said witness as interpreted by J. P. Rodriguez, who was duly sworn, were written by me, and the same were sworn to, and that she subscribed to the same by making her mark, she declaring her inability to write her name.

In testimony whereof I hereunto sign my name and affix my official seal, at San Antonio, the 8th day of June, A. D. 1883.

[SEAL.] GEO. R. DASHIELL,
Notary Public, Bexar Co., Texas.

467 Counsel for plaintiffs also offered to prove that the facts stated in their original and supplemental petitions touching

the ages, marriages, relationship, heirship, deaths, and disabilities of the persons therein mentioned were true.

Counsel for plaintiffs further offered to prove that there were held under the same confiscation proceedings as those set out under which plaintiffs claim other property and titles in San Antonio, Texas, and that neither the government of Mexico or of the republic or State of Texas or any person had sought to have the same annulled or set aside or questioned the validity of such titles.

Counsel for plaintiffs also offered to prove that the premises in their petition mentioned were the premises partitioned to Miguel Losoya as suerte No. 24, and were the same premises mentioned in said confiscation proceedings and conveyed to Garcia, through whom they claim.

Counsel for plaintiffs offered to prove that defendants, and each of them, had actual notice of plaintiffs' claim to the premises in controversy before acquiring any title thereto.

468 But the court, upon the objection of defendants, refused to allow the depositions aforesaid, or any of them, to be read, and refused to permit plaintiffs to make any of the proof aforesaid, upon the ground that the said confiscation proceedings were insufficient to pass title of any character, and that no title of any character was thereby passed to or vested in said Garcia, and that this was fatal to plaintiffs' right of recovery, and that, with all the said evidence read, as well as that proposed to be offered, showed no title in plaintiffs which would warrant a verdict and judgment in their favor.

To the rulings of the court aforesaid the plaintiffs then and there in open court excepted and tender this their bill of exception-, and ask now, here in open court, that the same be allowed and authenticated by the signature of the judge trying said cause, which is accordingly done in open court this, the 13th day of March, A. D. 1884, and made a part of the record.

E. B. TURNER, *Judge*.

Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs.* Mary A. Maverick *et al.* Plaintiffs' first bill of exceptions. Filed March 13, 1884. W. C. Robards, cl'k.

469 Plaintiffs' second bill of exceptions. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* No. 53.

And afterwards the plaintiffs, on the 13th day of March, 1884, filed their second bill of exceptions, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Plaintiffs' second bill of exceptions. Filed March 13, 1884. W. C. Robards, clerk.

470 *Pl'ffs' 2d Bill of Exceptions. Filed March* 13, 1884.

In Circuit Court of the United States for the Western District of Texas, at San Antonio. March Term, 1884.

PILAR GARCIA DE SABARIEGO *et als.*
vs. } No. 53.
MARY A. MAVERICK *et als.*

Plaintiffs' second bill of exceptions.

Be it remembered that upon the trial of the above entitled and numbered cause the following proceedings were had.

Plaintiffs, in their supplemental petition filed herein March 5th, 1884, excepted and demurred to the pleadings of defendants as follows:

471 3d. Plaintiffs further specially except and demur to those portions of the answers of defendants which allege for the first time the alienage of plaintiffs and their non-residence in and abandonment of the republic and State of Texas as ground of disability to the maintenance of this suit, and say that by reason of the failure to set up said matter in abatement in the due order of pleading in their original answers wherein they pleaded to the merits of the cause it is now too late to make said defence in said amended answers.

4th. Plaintiffs specially except and demur to those portions of defendants' answers which set up and claim the value of improvements in good faith, etc., upon the grounds (1) that to allow such claim is to deprive the plaintiffs of their property without due process of law, and that the laws of Texas which authorize such claim are inhibited by the Fourteenth Amendment of the Constitution of the United States; (2) that said laws are contrary to the constitution of Texas, in this, that to force plaintiffs to pay for improvements they never authorized as a condition precedent to obtaining possession of property which rightfully belongs to them is not according to the due course of the law of the land.

472 5th. Plaintiffs *plaintiffs* further specially except and demur to those portions of defendants' answers which set up and claim the value of improvements in good faith, upon the ground that the same presents an equitable defense and involves considerations which can only be availed of on the equity side of the court.

6th. Plaintiffs further specially excepts and demur to those portions of defendants' answers which set up and claim the value of improvements in good faith, upon the ground that the improvements therein mentioned and the several items thereof are not such as by the laws of Texas, if valid, compensation can be allowed for in this action.

7th. Plaintiffs specially except and demur to those portions of defendants' answers which set up the laches, neglect, etc., on the part of plaintiffs in asserting their rights and the staleness of plaintiffs' demand, upon the ground that it is no legal defense to this action,

and upon the further ground that the same, if it can be availed of at all, must be addressed to the equity side of the court.

8th. Plaintiffs specially except and demur to those portions
473 of defendants' answers which insists that plaintiffs are estopped and cannot now assert their right because of their failure to exercise rights of ownership, pay taxes, etc., up- the ground that the matters alleged by the defendants in this behalf constitute no legal defense to this action.

9th. Plaintiffs specially except and demur to those portions of defendants' answers which set up adverse possession as raising a presumption of grant from the sovereignty of the soil or other lawful owner, upon the ground that the same is insufficient in law; and, without waiving the benefit of the foregoing general and special demurrers and exceptions, but relying thereon, plaintiffs say:

(1.) That they deny all and singular the allegations in defendants' answers and each of them contained.

(2.) That in the year 1833, and from said year and up to the institution of this suit by the plaintiffs, Pilar Garcia de Sabariego has been a feme covert and married woman, and during the whole of said period labored, and still labors, under the disability of being a feme covert and married woman; that her father, Francisco Garcia, died intestate at Goliad, Texas, in the year 1834, and her
474 mother, Gertrudes Barrera de Garcia, died intestate at Matamoras, Mexico, in the year 1843; that at the times of the death of her said father and mother, and from said times and to the bringing of this suit, she labored, and still labors, under the disability of being a feme covert and married woman; and plaintiffs plead the said disability as excepting and saving the said Pilar from the operation of all limitation laws, and from all presumptions of grant and any and all other presumptions and pleas in defendants' answers contained, which are not good as against a feme covert and married woman.

Each of the above and foregoing exceptions were, after argument, overruled by the court.

To the ruling of the court aforesaid the plaintiffs then and there in open court excepted and tender this their bill of exceptions, and ask now here in open court that the same be allowed and authenticated by the signature of the judge trying said cause, which is accordingly done in open court this 13th day of March, A. D. 1884.

E. B. TURNER, *Judge.*

Endorsed: No. 53. Sabariego *et als. vs.* Maverick *et als.* Plaintiffs' 2d bill of exceptions. Filed March 13, 1884. W. C. Robards, cl'k.

475 *Plaintiffs' Third Bill of Exceptions.*

PILAR GARCIA DE SABARIEGO *et al*
vs.
MARY A. MAVERICK *et al.*

And afterwards, on the 13th day of March, A. D. 1884, the plaintiffs filed their bill of exceptions as follows, endorsed, to wit:

No. 53. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* Plaintiffs' third bill of exceptions. Filed March 13, 1884. W. C. Robards, clerk.

476 *Pl'ffs' 3d Bill of Exceptions. Filed 13th March*, 1884.

In Circuit Court of the United States for the Western District of Texas, at San Antonio. March Term, A. D. 1884.

PILAR GARCIA DE SABARIEGO *et als.*
vs.
MARY A. MAVERICK *et als.*
} No. 53.

Be it remembered that upon the trial of the above entitled and numbered cause the following proceedings were had:

The court, amongst other things, instructed the jury as follows: "The plaintiffs have now closed all their evidence upon the question of title in the plaintiffs and those under whom they claim. That evidence being documentary, and it being the opinion of this court that the evidence so introduced fails to show any title in these plaintiffs or those under whom they claim to hold, therefore you will return a verdict for defendants."

To which instruction and charge of the court the plaintiffs then and there in open court excepted, upon the ground that said
477 charge is contrary to the law as applicable to the facts of the case, which facts are stated in plaintiffs' first bill of exceptions, and tenders this their bill of exceptions and ask now here in open court that the same be allowed and authenticated by the signature of the judge trying said cause, which is accordingly done in open court this 13th day of March, A. D. 1884.

E. B. TURNER, *Judge.*

Endorsed: No. 53. Sabariego *vs.* Maverick. Plaintiffs' third bill of exceptions. Filed March 13, 1884. W. C. Robards, cl'k.

478 *Original Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable judges of the circuit court of the United States for the fifth circuit and western district of Texas, holding sessions at San Antonio, in said district, Greeting:

Because in the records and proceedings and also in the rendition of the judgment of a plea which is in said circuit court before you between Pilar Garcia de Sabariego and Manuel Sabariego, her husband, plaintiffs, and Mary A. Maverick, Albert Maverick, George M. Maverick, Samuel Maverick, William H. Maverick, Edward H. Terrell, and Mary Terrell, his wife; J. H. Kampman, Herman D. Kampman and Elizabeth Kampman, his wife; Bertha Doerr and A. H. Doerr, her husband; Phillip Immecke, Fritz Steiner, Jacob Waelder and Ada Waelder, his wife; Edward Degener and Mary Degener, his wife; C. M. Terrell and Sarah S. Terrell, his wife; Ed. Steeves, E. Dillon,

A. Michel and Helen Michel, his wife; J. P. Reed and Mary E. Reed, his wife; Francis E. Vance and J. Milton Vance, as executors of the estate of William Vance, deceased, and individually, and Mary Vance, wife [of] J. Milton Vance; Daniel Oppenheimer and Louisa Oppenheimer, his wife; Mrs. E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher; Temple Beth-El "Synagogue," a religious corporation represented by and under the control of its trustees, Sol. Halff, S. Mayer, Simon Frank, A. B. Frank, and Daniel Oppenheimer; The City of San Antonio, Texas, a municipal corporation, represented by its mayor, James H. French; Trinity Methodist Episcopal Church, a religious corporation, represented by and under the control of its trustees, R. M. Moore, Wesley Ogden, C. M. Terrell, G. W. Brackenridge, George B. Silsby, and M. A. Daugherty; The Baptist Church, a religious corporation, represented by and under the control of its trustees, S. Cayce, E. G. Houston, W. D. Johnson, and James Newton; Miss Annie Sweet, and Mrs. C. Sweet, widow of J. R. Sweet, defendants (cause No. 53 on the docket of said court), a manifest error hath happened to the said named plaintiffs, who are plaintiffs in error herein, as by their complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in said Supreme Court to be then and there held, that, the records and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the 19th day of May, in the year of our Lord one thousand eight hundred and eighty-four.

W. C. ROBARDS,
Cl'k of Cir't C't of the U. S. for the 5th Cir't and Western Dist. of Texas, at San Antonio.

Allowed by—
E. B. TURNER, *U. S. Judge.*

479 *Copy of Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable judges of the circuit court of the United States for the fifth circuit and western district of Texas, holding sessions at San Antonio, in said district, Greeting:

Because in the records and proceedings and also in the rendition of the judgment of a plea which is in said circuit court before you between Pilar Garcia de Sabariego and Manuel Sabariego, her hus-

band, plaintiffs, and Mary A. Maverick, Albert Maverick, George M. Maverick, Samuel Maverick, William H. Maverick, Edward H. Terrell and Mary Terrell, his wife; J. H. Kampman, Herman D. Kampman and Elizabeth Kampman, his wife; Bertha Doeer and A. H. Doeer, her husband; Philip Immecke, Fritz Steiner; Jacob Waelder and Ada Waelder, his wife; C. M. Terrell and Sarah S. Terrell, his wife; Ed. Steves, E. Dillon; A. Michael and Helen Michael, his wife; J. P. Reed and Mary E. Reed, his wife; Francis E. Vance and J. Milton Vance, as executors of the estate of William Vance, deceased, and individually, and Mary Vance, wife of J. Milton Vance; Daniel Oppenheirmer and Louisa Oppenheimer, his wife; Mrs. E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton,
480 Mrs. Mary Schumacher; Temple Beth-El "Synagogue," a religious corporation, represented by and under the controll of its trustees, Sol. Half, S. Mayer, Simon Frank, A. B. Frank, and Daniel Oppenheimer; The City of San Antonio, Texas, a municipal corporation, represented by its mayor, James H. French; Trinity Methodist Episcopal *Episcopal* Church, a religious corporation, represented by and under the controll of its trustees, R. M. Moore, Wesley Ogden, C. M. Terrell, G. W. Brackenridge, George B. Silsby, and M. A. Daugherty; The Baptist Church, a religious corporation, represented by and under the controll of its trustees, S. Cayce, E. G. Houston, W. D. Johnson, and James Newton; Miss Annie Sweet, and Mrs. C. Sweet, widow of J. R. Sweet, defendants (cause No. 53 on the docket of said court), a manifest error hath happened to the said named plaintiffs, who are plaintiffs in error herein, as by their complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice be done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same,
to the Supreme Court of the United States, together with this
481 writ, so that you have the same at Washington on the second Monday of October next, *to* said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the 19th day of May, in the year of our Lord one thousand eight hundred and eighty-four.

[SEAL.] W. C. ROBARDS,
Cl'k of Cir't C't of the U. S. for the 5th Cir't and Western Dist. of Texas, at San Antonio.

Allowed:
E. B. TURNER, *U. S. Judge.*

Endorsed: No. 53. Pilar Garcia de Sabariego *et als. vs.* Mary A. Maverick *et als.* Writ of error.

482 *Citation in Error. Served May* 29, 1884. *Filed June* 19*th*, 1884.

The United States of America to defendants, Mary A. Maverick, George M. Maverick, William H. Maverick, Sam. Maverick, Albert Maverick, Edward H. Terrell and Mary Terrell, his wife; J. H. Kampman, Jacob Waelder and Ada Waelder, his wife; Herman D. Kampman and Elizabeth Kampman, his wife; Bertha Doerr and H. A. Doerr, her husband; Fritz Steiner, Edward Degener and Mary Degener, his wife; C. M. Terrell and Sarah S. Terrell, his wife; Edward Steves, E. Dillon, J. P. Reed and Mary E. Reed, his wife; Francis E. Vance and J. Milton Vance, E. V. Stegall and A. H. Stegall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher, Miss Anna Sweet and Mrs. C. Sweet, widow of J. R. Sweet, or to Messrs. Waelder & Upson, their attorneys of record; to defendants, Temp-El Bethel "Synagogue," S. Mayer, Simon Frank, Daniel Oppenheimer and Louisa Oppenheimer, his wife; Alexander Michel and Helen Michel, his wife, or to Messrs. Shook & Dittmar, their attorneys of record; to defendant City of San Antonio, or to Messrs. Eckford & Newton, its attorneys of record; to defendant Trinity Methodist Church, or to Messrs. Ogden & Ogden, its attorneys of record; to defendant The Baptist Church, or to S. Cayce, one of its trustees; to defendant Philip Immecke, or to Messrs. Wurzbach & Copeland, his attorneys of record:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and western district of Texas, holding sessions at San Antonio, wherein Pilar Garcia de Sabariego and Manuel Sabariego, her husband, are plaintiffs in error and you are defendants, to show cause, if any there be, why the judgment rendered against the plaintiffs in error, as in the said writ of error mentioned, should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court of the United States, this the 29th day of May, in the year of our Lord one thousand eight hundred and eighty-four.

[The Seal of the U. S. Circuit Court, Western Dist. Texas, San Antonio.]

E. B. TURNER,
U. S. Judge.

Test, with seal of court at San Antonio, Texas, this the 29th day of May, A. D. 1884.

W. C. ROBARDS,
Clk U. S. C. C.

483 *Return of U. S. Marshal for the Western District of Texas upon Annexed Citation in Error. Issued May 29th, 1884, in Sabariego et al. vs. Maverick et al.*

Came to hand June 6th, 1884, and executed by service within the western district of Texas as follows:

On the defendant in error, The Trinity Methodist Church, by delivering a true copy in person to Messrs. Ogden & Ogden, its attorneys of record, June 11th, 1884.

On the defendant in error, The Baptist Church, by delivering a true copy in person to S. Cayce, one of its trustees, June 14th, 1884.

On the defendant in error, Philip Immecke, by delivering a true copy in person to Messrs. Wurzbach & Copeland, his attorneys of record, June 14th, 1884.

On the defendant in error, The City of San Antonio, by delivering a true copy in person to Messrs. Eckford & Newton, its attorneys of record, June 14th, 1884.

On the defendants in error, The Temple Beth-El "Synagogue," S. Mayer, Simon Frank; Daniel Oppenheimer and Louisa Oppenheimer, his wife; Alexander Michel and Helen Michel, his wife, by delivering a true copy in person to Messrs. Shook & Dittmar, their attorneys of record, June 14, 1884.

On the defendants in error, Mary A. Maverick, George M. Maverick, William H. Maverick, Sam. Maverick, Albert Maverick; Edward H. Terrell and Mary Terrell, his wife; J. H. Kampman; Jacob Waelder and Ada Waelder, his wife; Herman D. Kampman and Elizabeth Kampman, his wife; Bertha Doerr and H. A. Doerr, her husband; Fritz Steiner; Edward Degener and Mary Degener, his wife; C. M. Terrell and Sarah S. Terrell, his wife; Edward Steves, E. Dillon; J. P. Reed and Mary E. Reed, his wife; Francis E. Vance and J. Milton Vance; E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher; Miss Annie Sweet and Mrs. C. Sweet, widow of J. R. Sweet, by delivering a true copy in person to Messrs. Waelder & Upson, their attorneys of record, June 14th, 1884.

HAL'K GOSLING,
U. S. Marshal, W. D. T.

484 Writ-of-error bond. Pilar Garcia de Sabariego *et al. vs.* Mary A. Maverick *et al.* In the circuit court of the United States at San Antonio, western district of Texas.

And afterwards the plaintiffs Sabariego and wife filed the following writ-of-error bond on the 19th day of June, A. D. 1884:

Endorsed: Filed June 19th, 1884. W. C. Robards, clerk, by D. West, deputy.

485 *Bond. Filed June 19th*, 1884.

In the Supreme Court of the United States.

PILAR GARCIA DE SABARIEGO and MANUEL SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.*

Know all men by these presents that we, Pilar Garcia de Sabariego and Manuel Sabariego, by our attorney-in-fact, John Rosenheimer, and John Rosenheimer and Lewis Hancock, William F. North and W. H. D. Carrington, are held and firmly bound unto Mary A. Maverick, George M. Maverick, Albert Maverick, Samuel Maverick, William H. Maverick; Edward H. Terrell and Mary Terrell, his wife; J. H. Kampman; Herman D. Kampman and Elizabeth Kampman, his wife; Bertha Doeer and A. H. Doeer, her husband; Phillip Immecke, Fritz Steiner; Jacob Waelder and Ada Waelder, his wife; Edward Degener and Mary Degener, his wife; C. M. Terrell and Sarah S. Terrell, his wife; Ed. Steves, E. Dillon; A. Michael and Helen Michael, his wife; J. P. Reed and Mary E. Reed, his wife;
Francis E. Vance and J. Milton Vance, as executors of the
486 estate of William Vance, deceased, and individually, and
Mary Vance, wife of J. Milton Vance; Daniel Oppenheimer and Louisa Oppenheimer, his wife; Mrs. E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher, Miss Annie Sweet; Mrs. C. Sweet, widow of J. R. Sweet; "The Trinity Methodist Episcopal Church," The Baptist Church, The Temple Beth-El "Synagogue," and The City of San Antonio, defendants in error in above-entitled cause, in the full and just sum of one thousand dollars; to which payment, well and truly to be made to the said obligees and defendants, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our sealed this the 29th day of May, 1884.

Whereas lately at a circuit court of the United States for the fifth circuit and western district of Texas, holding sessions at San Antonio, in a suit between Pilar Garcia de Sabariego and Manuel Sabariego, her husband, plaintiffs, and Mary A. Maverick, Albert Maverick, George M. Maverick, William H. Maverick, Samuel Maverick; Edward H. Terrell and Mary Terrell, his wife; J. H. Kampman; Herman D. Kampman and Elizabeth Kampman, his wife; Bertha Doeer and A. H. Doeer, her husband; Phillip Immecke, Fritz
Steiner; Jacob Waelder and his wife, Ada Waelder; Edward
487 Degener and Mary Degener, his wife; C. M. Terrell and
Sarah S. Terrell, his wife; Ed. Steves, E. Dillon; A. Michael and Helen Michael, his wife; J. P. Reed and Mary E. Reed, his wife; Francis E. Vance and J. Milton Vance, as executors of the estate of William Vance, deceased, and individually, and Mary Vance, wife of J. Milton Vance; Daniel Oppenheimer and Louisa Oppenheimer, his wife; Mrs. E. V. Steagall and A. H. Steagall, her husband; Mrs. E. A. Patton, Mrs. Mary Schumacher; Temple Beth-El "Synagogue," a religious corporation, represented by and under the control of its trustees, Sol Halff, S. Meyer, Simon Frank, A. B.

Frank, and Daniel Oppenheimer; The City of San Antonio, a municipal corporation, represented by its mayor, James H. French; Trinty Methodist Episcopal Church, a religious corporation, represented by and under the controll of its trustees, R. M. Moore, Wesley Ogden, C. M. Terrell, G. W. Brackenridge, George B. Silsby, and M. A. Dougherty; The Baptist Church, a religious corporation, represented by and under the controll of its trustees, S. Cayce, E. G. Houston, W. D. Johnson, and James Newton; Miss Annie Sweet and Mrs. C. Sweet, widow of J. R. Sweet, defendants in said suit and the obligees herein, a judgment was rendered against the said plaintiffs, and the plaintiffs having prosecuted a writ of error to
488 the Supreme Court of the United States to be holden at Washington on the second Monday of October next:

Now, the condition of the above obligation is such that if the said Pilar Garcia de Sabariego and Manuel Sabariego, her husband, plaintiffs in error, shall prosecute their writ of error to effect and answer all costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

PILAR GARCIA DE SABARIEGO, [SEAL.]
MANUEL SABARIEGO, [SEAL.]

By their attorney-in-fact—

JOHN ROSENHEIMER.
JOHN ROSENHEIMER. [SEAL.]
LEWIS HANCOCK. [SEAL.]
WILLIAM F. NORTH. [SEAL.]
W. H. D. CARRINGTON. [SEAL.]

Sealed and delivered in presence of—
GEORGE PASCHAL.

Taken and approved by me at time of signing citation in error this 29th day of May, A. D. 1884.

E. B. TURNER.
U. S. Judge.

Filed June 19th, 1884.

W. C. ROBARDS, *Clerk*,
By D. WEST, *Deputy.*

489 *Assignment of Errors.*

In the Circuit Court of the United States at San Antonio, Western District of Texas.

PILAR GARCIA DE SABARIEGO *et al. vs.* MARY A. MAVERICK *et al.*

And afterwards, to wit, on the 1st day of September, A. D. 1884, plaintiffs in error, Sab-riego and Wife, filed their assignment of errors as follows, to wit:

Endorsed: Sabariego *et al. vs.* Maverick *et al.* Plaintiffs' assignment of errors. Filed Sept. 18th, 1884. W. C. Robards, clerk, by D. West, deputy.

490 *Assignment of Errors. Filed Sept. 18th, 1884.*

PILAR GARCIA DE SABARIEGO and Her Husband, MANUEL SABARIEGO, Plaintiffs in Error,

vs.

MARY A. MAVERICK *et al.*, Defendants in Error.

On error to [the] Supreme Court of the United States from western district of Texas.

Assignment of errors.

Plaintiffs in error assigns the following errors:

1st. The court below erred in its rulings touching the invalidity of the confiscation proceedings to pass title, and in refusing, upon the objection of defendants, to allow or give weight to any of the proofs offered by plaintiffs in support of their title, as set forth in their first bill of exceptions.

2d. The court below erred in overruling plaintiffs' exceptions to defendants' pleadings, as set forth in plaintiffs' second bill of exceptions.

3d. The court below erred in its charge to the jury, to the effect that they would return a verdict for defendants,

491 as set forth in plaintiffs' third bill of exceptions.

For the errors aforesaid plaintiffs in error pray for a reversal of the judgment rendered in this cause, and they reserve the right to specify in their printed brief other errors upon which they may rely for a reversal.

A. J. PEELER,
Attorney for Plaintiffs in Error.

Endorsed: Sabariego *et al. vs.* Maverick *et al.* Plaintiffs' assignment of errors. Filed Sept. 18th, 1884. W. C. Robards, clerk, by D. West, deputy.

492 *Clerk's Certificate.*

I, W. C. Robards, clerk of the circuit court of the United States for the fifth circuit and western district of Texas, at San Antonio, do hereby certify that the foregoing four hundred and ninety-one pages in writing contains a true copy of the record and of the assignment of errors and of all proceedings as they appear on file and of record in this court in cause No. 53, entitled Pilar Garcia de Sabariego *et al. versus* Mary A. Maverick *et als.*

In testimony whereof I hereunto set my hand and the impress of the seal of said court at [my] office in San Antonio, Texas, the 20th day of September, A. D. 1884.

[The Seal of the U. S. Circuit Court, Western Dist. Texas, San Antonio.]

W. C. ROBARDS,
Clerk U. S. Circuit Court, San Antonio, Texas.

Endorsed on cover: W. Texas C. C. U. S. No. 345. Pilar Garcia de Sabariego and Manuel Sabariego, her husband, plaintiffs in error, *vs.* Mary A. Maverick, Albert Maverick, George M. Maverick, Samuel Maverick, *et al.* Filed October 6, 1884.

493 THE UNITED STATES OF AMERICA, ss:

[Seal of the Supreme Court of the United States.]

The President of the United States to the judges of the circuit court of the United States for the western district of Texas, Greeting:

Whereas in a certain suit in said circuit court between Pilar Garcia de Sabariego and Manuel Sabariego, her husband, plaintiffs, and Mary A. Maverick *et al.*, defendants, which suit was removed to the Supreme Court of the United States by virtue of a writ of error, agreeably to the act of Congress in such case made and provided, a diminution of the record and proceedings of said cause has been suggested, to wit:

"That the transcript of the proceedings had in said circuit court, as filed in this court, does not contain the following papers
494 and pleadings filed among the papers of said cause, to wit:

"1. The Spanish copy of the partition of lands of the Mission of San Antonio de Valero, a translation of which is copied in the transcript.

"2. The Spanish copy of the so called proceedings for the confiscation of the land in controversy in this case, a translation of which is also contained in the transcript.

"3. A copy of the original Spanish deed of conveyance purporting to convey to one Francisco Garcia the land in controversy in this case, a translation of which is also contained in the transcript.

"4. The disclaimers, respectively, of Mrs. E. A. M. Houston, Dr. I. R. Smith, and C. Upson, executor of the estate of James Vance, deceased, all of which were duly filed among the papers of said cause.

495 "5. The abstract of the claim or title of the plaintiffs to the land in controversy, filed by said plaintiffs among the papers of the cause in said circuit court on March 4th, 1884, on demand of the defendants, in accordance with the laws of Texas."

You therefore are hereby commanded that, searching the record and proceedings in said cause, you certify what omissions, to the extent above enumerated, you shall find to the said Supreme Court of the United States, so that you have the same, together with this writ, before the said Supreme Court forthwith.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, the 24th day of April, A. D. 1885.

JAMES H. McKENNEY,
Clerk Supreme Court U. S.

496 UNITED STATES OF AMERICA,
Western District of Texas:

In obedience to the within writ I have made copies of the respective papers herein ordered, and have the honor to transmit herewith the same to the honorable the Supreme Court of the United States.

W. C. ROBARDS,
Clerk U. S. Circuit Court, W. D. T., San Antonio.

.497 . AÑO DE 1793.

Expediente ynstruido s're el reparto de las tierras de San Ant'o Valero a los vecinos del Pres'o de los Adaes.

JUES,
El Gov'r de la Provincia de Texas.
D'n Manuel Muñoz.

498 Devuelvo a v'd adjunto el exped'te marcado. p. y No. 21, f's 19, que me remitio con su carta No. 394 de 29 u Oct'e ult'o y en q'e los vecinos de San Antonio de Bexar solicitan se les hagan repartimiento de tierras con atencion a que fueron pobladores del extinguido Presidio de los Adaes e fin de que con areglo al dictamen de sor auditor de Gaxa, con que me he conformado en superior decreto de 17 del corriente disponga v's su cumplimiento.

Dios g'ñe a v's m's a's Mexico, 20 de Noviembre de 1792.

EL CONDE DE REVILLA GIGEDO.
S'OR RAMON DE CASTRO.

S'ria. Es copia Coahuila, 27 de Diciembre de 1792.

CASTRO. (Rubrica.)

VILLA DE COAHUILA, 27 *de Dir'e de* 1792.

Pasese este expediente al Gov'or de la Prov'a de Texas, D. Manuel Muñoz, para que en vista del parecer dado por el S'or Auditor de Guerra con q'e se ha conformado el Ex'mo S'or Virey Conde de Revilla Gigedo disponga su puntual y debido cumplimiento.

CASTRO.

Auto de Obedecim'to.

Visto por mi D'n Manuel Miñoz, Then'te Cor'l de Cav'a de los R's Exercitos de S. M. Gov'or Pilitico y Militar de esta Prov'a de los Texas y nuebas Philipinas que actuo por receptoria con testigos de ass'a a falta de todos ess'no q'e no lo ay en los terminos de la ley dixe: que se cumpla guarde y execute lo prevenido por el S'r Com'te G'ral de Prov'as de Oriente Coronel D'n Ramon de Castro, consig'te al dictamen del S'or Auditor de Guerra, y decretos de con-
499 formidad del Ex'mo S'or Virey, Conde de Revilla Gigedo, de dies y siete de N're del año proximo pasado del mil setec's noventa y dos, y oxa de la misma fecha, y a este efecto hagaseles saber a los vecinos del abandonado Pres'o de los Adaes la superiores resoluciones; previniendole al apoderado y demas yndividuos presenten lista de los q'e sean p'a proceder al reparto de tierras como se manda por d'ho S'or Ex'mo, nombrado para este fin suxeto inteligente que mida las porciones que acada uno de d'hos vecinos se le señala, sitando estos el dia para que se pase por mi á hacer la operacion con lo que podrau habilitar y perfeccionar sus tierras p'a verificar las siembras en tiempo oportuno con lo q'e se executará la repeticion de ocursos; por este auto yo el refendo Governador asi lo proveí y mandé en esta villa de S'n Fernando y Presidio de S'n Ant'o de Bexar, en onse dias del mes de Enero deste corriente año de mil

setecientos noventa y tres, y lo firmé con los de mi ass'a como dho es doy fee.

MANUEL MUÑOZ.

De ass'a, VICENTE DE LA CUESTA.
De ass'a, JUAN JOSE CALDERON.

Notoriedad a Los Vez'o De Los Adaes.

En la villa de S'n Fernando y Pres'o de S'n Ant'o de Bexar en catorce dias del mes de En'o deste corriente año de mil setecientos noventa y tres. Yo D'n Manuel Muños, Then'te Cor'l de Cav'a de los R's Exercitos de S. M., Gov'or Politico y Militar desta Prov'a de los Texas, que antuo por receptoria con testigos de ass'a a falta de todo ess'no. En virtud del auto proveido el dia onse del cor-
500 riente, y estando presente D'n Jose Servantes apoderado de los vecinos que fueron del Pres'o abandonado de los Adaes con viente de ellos; se les hiso saber las provido dictadas por el S'or Com'te G'ral Coronel D'n Ramon de Castro comisionado conde de la Sierragorda dictamen del S'or Auditor de la Guerra, decreto de conformidad del Ex'mo S'or Virey Conde de Revella Gigedo y entendidos de ellas dixeron; que sin embargo de que faltan los demas vecinos de los Adaes, por hallarse aucentes de esta capital, y esperan que se hallen de regreso p'a el dia—viente y cinco del q'e signe, y en este caso presentaran lista de todos ellos, y para el reparto de las tierras q'e se les señalan en las que han correspondido a los Yndios de la Mission de S'n Antonio Valero, piden se nombre a D'n Pedro Guisar a quien pagaran su honorario entre todos aprorrata p'a q'e se les mida y se entriegue acada uno los seis almudes de sembradura, que se le señala a cada uno de d'hos vecinos, sin perjuicio de las que debau disfrutar los Gudios y agregados a d'ha mision, y para que no se demore. El citado repartim'to de tierras pasaran ajustarse con d'ho Don Pedro Guisar aquien emplasaran y duran aviso del S'or Pres'te Gov'or del dia en que esten prontos y en disposicion de recibir. Esto respondieron y firmo d'ho apoderado y los que supieron escribin, con migo d'ho Gov'or y testigos de ass'a de todo doy fée.

MUÑOS.
BERNARDO ZERVANTES.
FRANC'O FARGOSO.
PABLO FLORES.
JOSE CALLETANO ZEPEDA.
501 MATIAS DELERIO.
ANT'O ESTEBER.
FELIS GUERRERO.

De ass'a, VICENTE DE LA CUESTA.
De ass'a, JUAN JOSE CALDERON.

Auto p'a q'e Pase Este Expid'ie Ruego y Encargo al 1e Presid'te de Misiones.

En d'ha villa y en quince dias del mes de Enero de este corr'te año de mil stecientos noventa y tres. Yo el prenotado Gov'or comi-

cionado que actuo con testigos de ass' en la actuacion de estas delig á falta de todo ess'no dixe: que respecto a estar notificados los vez'os que eran del pres'o abandonado de los Adaes, como aparece de la delig'a practicado en al dia de ayer catorce del citado Enero, y siendo consig'te q'e el Pr. P. P'esid'te Fr. Jose Fran'co Lopez, se imponga de las determinaciones de la superioridad relativas a lo pedido por d'hos vecinos p'a que se les provea de tierras y aguas y siendo la de la Miss'on de S'n Ant'o Valero las que se les destinan, conforme el informe del S'or Conde de la Sierragorda, dictamen del S'r Auditor de la Guerra y decreto de conformidad del Ex'mo S'r Virey Conde de Revilla Gigedo y p'a que no se demore su cumplim'te y sirva de perjuicio a d'hos vez's p'a laborear sus tierras limpiar las y cercar las p'a hacer sus siembras he venido en q'e se pase d'ho expediente al referido p'e presidente de misiones para q'e se serva ynstruir de d'has—provid'a y disponga por si y a nombre de los Yndios de la Miss'on de S'n Ant'o de Valero sugeto que enseñe y pueda manifestar todas las tierras de laborio y que esten baxo de riego. Armg'e no
abiertas p'a que separando las que se destinan a d'hos Yndios
502 se proceda al reparto de las q'e se austan en las citadas prov's a los prenotados vez's de los Adaes y congregados de muchos años a esta parte en d'ha mision. Y a este efecto ruego y encago en nombre de S. M., y por mi parte le suplico se sirva exponer a continuacion lo que sea de su a grado p'a en su vista proceder a lo conven'te. Por este auto asi lo determine y firme yo el anotado Gov'or comisionado con los testigos de mi ass'a con quienes actuo como d'ho es.

MANUEL MUÑOS.

De ass'a, VICENTE DE LA CUESTA.
De ass'a, ALEXO DE LA GARZA.

Visto p'r mi Fr. Josef Fran'co Lopez, Pres'te de las Misiones de esta Provincia de los Texas, el auto antecedente, digo, no haber algun inpedimento p'a q'e V.S. proceda al reparto y adjudicacion de tierras q'e se deben dan a los presentados vecinos de los Adaes, y agregados de esta Mision de S'n Antonio Valero p'a cuyo efecto, manifestara el Mayor domo de esta Mision las tierras de Laborio q'e estan bajo de riego p'a q'e V. S. proceda a lo que fuere conveniente.

Mision de S'n Antonio de Valero, Enero dies y seis de mil setecientos noventa y tres.

FR. TH. FRAN'CO LOPEZ.

En la villa de S'n Fern'do, y Pres'o de S'n Ant'o de Bexar, en dies y siete dias del mes (de Enero deste) corriente año de mil setecientos noventa y tres, Yo D'n Manuel Muños, Phen'te Cor'l de Cav'a de los R's Exercitos de S. M. Gov'or de esta Prov'a de los Texas, y
comisionado por el S'or Com'te G'ral de Prov's de Oriente
503 Coronel D'n Ramon Castro; que actuo por receptoria con testigos de ass'a a falta de todo Esc'mo q'e no le ay en los terminos de la ley. Haviendo visto la respuesta dada por el R. P. Presid'te de Misiones Fr. Jose Fran'co Lopez, y para que se pueda efectuar lo prevenido en auto proveido a los onse dias del corr'te Enero dixe:

Que sin embargo de haber informado a los Yndios de la Mis'on de S'n Ant'o Valero, apresencia de su padre M'ñro las superiores— provede de los Señores Auditor de Guerra, Ex'mo Señor Virrey, y Com'te G'ral, sean llamado aeste Gov'r y estando presentes con d'ho S'r M'ñro a quien de ruego y encargo se le suplicara, q'e asista; el Gov'r Esmerejildo de la Puente, y los Yndios Juan de Dios Cortes, Urbano Ynoxosa, Anselmo Cuevas, y Mateo Godines, y estando presentes dixeron que eran diputados por los demas Yndios de su Pueblo para hacer saver al S'on presente Gov'or q'e diputaban como havian diputado a su actual Gov'or Esmerijildo Puente para que firmase, y asistiese a nombre de todos los hijos del Pueblo a vir y firmar los notificaciones y demas dilijo que sean conducentes al cumplim'to de las orño que se les tienen notoriadas ante su P'e M'ñro en este auto yo el referido Gov'or mande que se les leyese con palabras claras e ynteligentes el informe del S'or Conde de Sierragorda, q'e signe en este expediente. El dictamen del S'or Auditor de Guerra, el decreto de conformidad del Ex'mo S'r Virrey Conde de Revilla Gigedo, y Com'te G'ral con el auto probeido por mi, y despues de estar bien instruidos de que se van a repartir las tierras de la mision, ó los vez's q'e fueron del presidio abandonado de los
504 Adaes, agregados ó sirvientes de d'ha mision, y a cada uno de los Indios que han sido de ella, a razon de cuatro almudes de sembradura, separando la porcion q'e sea conveniente para cultivarla, sembrarla de dos frutos que sean convinientes p'a pagar lo q'e adende d'ha mision quando llegue el caso de que se mande la entrega de ella al ordinario. Y deseando que d'hos Yndios logren del beneficio y ventaxa de la tierra laboreada, segun el conocimiento q'e de ellas tengan, se les propuso que elixesen en cual de las dos labores querian que se les repartieren, las q'e se les asignan por la superioridad, y respondio asi, d'ho Gov'r como los demas q'e estan presentes que pedian se les repartiese las tierras en la labor que se nombra de abax'o en las que deberia quedar la porcion de sembradura que bastase p'a pagar con sus frutos las dendas que tubiere la mision al l'po de su entrega al ordinario, y despues se destinarian p'a sembrar milpa de comunidad que sirviese a beneficio de ellos y de d'hos Adaiseños.

Esto respondieron y firmo d'ho Esmerejildo con su P'e M'ñro Fr. Jose Fran'co Lopez; firmelo yo d'ho Gov'r con los testigos de ass'a con quienes actuo como d'ho es doy fée.

MUÑOS.
FR. TH'S FRAN'CO LOPEZ.

Por mi y como apoderado de los demas y yos de la mision de San Antonio Balero lo firme.

HERMENEGILDO PUENTE.

De ass'a, VICENTE DE LA CUESTA.
De ass'a, ANDRES BEN'TO COURBIERE.

505 *Pie de Lista de los Vecinos que Salimos de los Hadaes.*

Bernardo Zervantes.
Siprian Losolla.
Miguel Losoya.
Manuel Losoya.
Matias del Rio.
Josephe Maria Rodriguez.
Gaspar Ydalgo.
Juan de la Zerda.
Juan Martinez.
Manuel Martinez.
Lorenzo Ramos.
Josephe Luis Hernandez.
Antonio Brito.
Luis de la Grus.
Diego Herrera.
Teodoro de la Serda.
Francisco de la Serda.
Manuel de Alcalan.
Luis Ramirez.
Josephe Mansolo.
Francisco Guerrero.
Felix Guerrero.
Rafael San Miguel.
Luis de Castro.
Gab-iel Zepeda.
Manuel Franco.
Josephe de Alcala.
Mariano Salinas.
Josephe Zepeda.
506 Josephe Martin Benites.
Josephe Ramires.
Manuel de la Grus.
Juan Josephe Cadeno.
Josephe Antonio Niber.
Manuel de los Santos.
Pablo Flores.
Juaquin Musquiez.
Manuel Barela.
Josephe Flores.
Ambrosio Zepeda.

Villa de San Fernando y R'l Pre'o de San Antonio de Bexar Enero 17 de 1793.

BERNARDO ZERBANTES.
FRANSICO FRAGOS.
MATIAS DEL RIO.
PABLO FLORES ANTONIO CHIVER.
JOSE CALLETANO DE ZEPEDA.
FELIS GUERRERO.

SAN ANT'O DE BEXAR 17 *de Enero de* 1793.

Acomulese al expediente p'a que se proceda con presencia de ella al reparto de las tierras de que habla d'ho expediente para cuyo efecto estan prevenidos de que handestar Juntos p'a q'e cada uno reciba la tierra q'e le corresponde y para que no hayga perjuicio ni tenga sentim'tos se procedora al reparto, hechando onertes con lo q'e se deverá conformar cada uno con la q'e le to que sea de tierra labrado o q'e tenga monte aunq'e esté baxo de riego g zequios delo que esta entendido el apoderado D'n Bernardo Zervantes q'n firmo con migo d'ho Gov'or y tesg's.

BERNARDO ZERVANTES.

De ass'a, MUÑOS.
De ass'a, VICENTE DE LA CUESTA.
De ass'a, ANDRES BEN'TO COURVIEN.

507 Padron g'e manifestan los hijos de esta Mision de S'n Antonio de Valero, formado de orden del S'or Gov'or de esta Prov'a en dies y siete de Enero de mil setecientos noventa y tres, por mi el Gov'or de esta ya dho Mision, acompañade de n'ro P'e Ministro Fr. Josep Fran'co Lopez.

HERMENEGILDO PUENTE, *Gov'or.*
URBANO HINOJOSA,
Alcalde y Fiscal.

Juan de Dios Cortes.
Manuel de Hinojosa.
Anselmo Cuebas.
Josef Miguel Manzano.
Domingo Vrena.
Josef Joaquin Cuebas.
Fran'co Parilla,
Juan Josef Cuebas.
Mateo Godines.
Bernardino del Rio.
Fran'co Robles.
Josef Augustin Puente.
Fr. J'ph Fran'co Lopez.

HERMENEJILDO PUENTE.

En la villa de S'n Fernando y Pres'o de S'n Ant'o de Bexar en dies y ocho dias del mes de En'o deste corr'te año de mil setesientos noventa y tres. Ante un D'n Manuel Muños, Then'le Cor'l de Cav'a de los R'o Exercitos de S. M. Gov'or proprietario desta Prov'a de los Texas, y comisionado p'a la actuacion de estas dilij's por el S'or Com'te G'ral de Prov's de or'te Coronel. D'n Ramon de Castro que los authorizo con testigos de ass'a a falta de lodo Esc'no se
508 presentaron el apoderado y vez's del Pro'so abandonado de los Adaes. El Gov'or D'n Esmenegildo Puente y demas Yndios de la Mis'n de S'n Ant'o de Valero y pusieron representante al Agrimensor D'n Pedro Guizan, pare q'e les repartiera los tierras que se les asignan por el Ex'mo Fr. Virrey, Conde de Revilla Gigedo,

Consig'te a la Soberano R'l orñ de dies de sep'e del año pasado de mil setesientos setenta y dos constante de R'l regram'to de Presidios por ser sugeto inteligente, y de su satisfacion. En esta virtud y p'a excusar toda yntelij'a o mala versacion procedi a recibirles Juram'to a presencia de los referidos q'e firmaron los q'e saben escribir el q'e hizo por Dios N'ro Senor y una señal de la cruz que formo en su mano dra, baxo la cual prometio a Dios y ofrecio al Rey proceder al reparto de las tierras asignados asi a los ves's de los Adaes, como a los Yndios del Pueblo de S'n Ant'o y agregados deel, fiel, y legalm'te segun su saber y intender; para cuyo efecto, se hecharon las suertes como tienen pedido, con lo que se calificara la pureza de su proceder. Asi en las tierras labradas, como en las montosas q'e estan debaxo de riego; todo lo que se acienta por diligencia para que conste donde convenga y lo firmaron con migo dho Gov'or y testigos de ass'a doy fée.

MANUEL MUÑOS.
PEDRO HUISAN.
BERNARDO ZERVANTES.
ERMENEGILDO PUENTE.
FRAN'SCO FRAGO.
PABLO FLORES.
509 JOSE CALLETANO ZEPEDA.
ANTONIO CHIVER.
MATIAS DEL RIO.
FELIS GUERRERO.

De ass'a, VICIENTE DE LA CUESTA,
De ass'a, ANDRES BENT'O COURVIERE.

Respecto aque para la secularizacion de la Mision de S'n Ant'o Valero se me noticia, se librara pronta provid'a sobre la materia, Digasele en el entre tanto se recibe al P'e Ministro Fr. Jose Fran'co Lopez q'e prevenga a los Yndios cerquen y dispongan sus tierras p'a hacei su siembra en los de la labor de abaxo como pidieron, y es constante en la provid'a q'e corre de fex's trece bueltas a la misma cara de la catorce, y q'e cuando el caso Megue, se hara el reparto, por el Agrimensor que han pedido D'n Pedro Guisar, y entregaran los demas Auxilios que se prevengan en la citada provid'a y por ahora, finalixese el reparto de los vecinos de los Adaes y p'a presensiar al sorteo de ellas, como tienen pedido en la dilig'a q'e corre afoxas dies y seis y su buella, de dies y ocho del que signe. Y acte efecto pase el que hase las funciones de Alc'e de primer voto, D'n Juan Jose de la Santa, y Procurador General D'n Joaquin Flores p'a q'e presencien d'ho sorteo y a continuacion pongan pie de lista de los Yndividuos aquienes se han repartido los suertes de tierra a razon de seis almudes de sembradura a cada uno por el q'e hase de Agrimensor D'n Pedro Guisar, y de haverse executado todo, asentaran acentinuacim de Ula con anuencia de Guisar la dilig'a q'e
510 acredite todo lo referido. Por este auto yo el expresado Gov'r Comisionado, que actuo con testigos de ass'a asi to determine en esta Villa de S'n Fern'do y Pres'o de S'n Ant'o de Bexar en veinte

y tres dias del mes de Febrero de este corr'te año de mil setecientos noventa y tres.

MANUEL MUÑOS.

De ass'a, VICENTE DE LA CUESTA.
De ass'a, ANDRES BEN'TO COURVIERE.

En la villa de San Fern'o y Pres'o de San Antonio de Bexar en veinte y quatro dias del mes de Fev'o de mil setecientos noventa y tres años. Yo Don Juan Jose de la Santa Rexidor de Cano del ayuntamiento de esta expresada villa y alc'd ordinario de primer voto p'r privilegio de mi empleo y ausiencia del propietario que autuo por receptoria con testigos de ass'a a falta de todo escribano y en el presente papel comun por no haberlo de ningun cello, en cumplim'to del anto antecedente del Señor Governador de esta Prov'a dixe: que se pase por mi, acompañado del procurador G'ral de esta villa y el agrimensor nombrado en estas diligencias a presenciar el Reparto y sorteo de dhas tierras q'e se van a entregar a los vecinos del extinguido Pres'o de los Adaes, a razon de seis almudes de sembradura a cada uno por d'ho agrimensor D'n Pedro Guisar de lo que se tomara razon con expresion de haberse executado en la diligencia que al fur se practique y de consiguiente se pondran en
511 lista todos los comprehendidos. Por este anto asilo determine y firme con los testigos de mi ass'a conquienes autuo como d'ho es de que doy fée.

JUAN J'PH DE LA SANTA.

De ass'a, LUIS MN'L FLORES.
De ass'a, JOSE ANTONIO ROMERO.

En d'ha villa y pres'o y en veinte y cinco dias del mes de Febrero del mil setecientos noventa y tres años yo el Jues presitado en virtud del auto de obedesim'to antecedente, me constitui en el paraxe ó citio de la labor de ariba de la Mision de S'n Ant'o Valero. Acompañado del procurador g'ral desta villa D'n Joachin Flores y Zendeja y de que hace de agrimensor D'n Pedro Huisar y estando en el se hizo el sorteo y reparticion por el anotado Huisar de las espresadas tierras dandole a cada un individuo de los vecinos que fueron del demolido Pres'o de los Adaes una suerte de tierra para sembrar suficientemente y con amplitud media fanega de mais que presencie con d'ho procurador; y de consiguiente yo el consabido Jues de Orden verval que para ello tube del S'r Gov'or de esta Prov'a tenien'te de Coron'l D'n Manuel Muños, les puse en posesion a uno por uno de su suerte que le toca, quieta y pacifica a nombre de su magestad (que Dios gñe) v'sando y observando todas las seremonias, formalidades y requisitos que son nesesarios, y previene el D'ro y haciendo los asimismo que aran casen matas que tira-
512 sen piedras. Como lo executaron por los quatro vientos en fee de hallarse posesionados realm'te y por haber adquirido, como por la misma razon adquieren el Dominio Señorio y propriedad que previene el d'ro y por le mismo se les da para que la tengan y disfruten livrem'te, ellos sus herederos y susesores con todos sus

usos costumbres y servidumbres. Previniendoles como se les previno lo puebleu y cultiven dentro del termino prevenido por ley y que no la vendad ni enageneu sin el indispensable permiso y expresa licencia del Señor Governador de la Prov'a haciendo. Ygualm'te lo propio en los mismos terminos y con las mismas provenciones con las agregados de d'ha mision y demas vecinos de este pres'o y en consequencia de que el Señor Governador manda que unos y otros se pongan en lista constantes en esta diligencia con expresion de sus nombres y distincion de Adaeseños y los que no lo son lo executo en la forma y manera siguiente:

Lista de los Adaeseños.

No. 1, á Manuel Martines.
No. 2, á Jose Maria Rodrigues.
No. 3, á Manuel de los Santos.
No. 4, á Joachin Musquez.
No. 5, á Mariano Salinas.
No. 6, á Juan Martines.
No. 7, á Manuel Fran'co.
No. 8, á Bernardo Zervantes.
513 No. 9, á Francisco Carmona.
No. 10, á Luis de Castro.
No. 11, á Nepomuceno Sanmiguel.
No. 12, á Manuel de Alcala.
No. 13, á Felis Guerrero.
No. 14, á Fran'co Ant'o Guerrero.
No. 15, á Louis Ramirez.
No. 16, á Domingo Carmona.
No. 17, á Juan de la Zerda.
No. 18, á Jose Ramires.
No. 19, á Matias del Rio.
No. 20, á Jose Ant'o Acosta.
No. 21, á Fran'co Zerda.
Pasa al Frente.
No. 22, á Fernando Zerda.
No. 23, á Gaspar Ydalgo.
No. 24, á Miguel Losoya.
No. 25, á Sipriano Losoya.
No. 26, á Jose de Zepeda.
No. 27, á Manuel de la Cruz.
No. 28, á Manuel Losoya.
No. 29, á Luis Hernandes.
No. 30, á José Serafin Mansolo.
No. 31, á Jose Alcala.
No. 32, á Ambrosio Zepeda.
No. 33, á Diego de Herrera.
No. 34, á Tomas Maldonado.
No. 35, á Teodoro de la Zerda.
No. 36, á Pablo Flores.
No. 37, á Ant'o Chiver.

No. 38, á Lorenzo Ramos.
No. 39, à Xavier de Zepeda.
514 No. 40, á Luis Cruz.

Seguen los que se agregaron a los Adaeseños que tambien tomaron tierrera como se refiere:

No. 41, á Manuel Ant'o Paniaga.
No. 42, á Carlos Casillas.
No. 43, á Gregorio de Herrera.
No. 44, á Jose Ant'o Ramos Medrano.
No. 45, á Jose Manzolo.

Seguen los que estaban agregados a la Mision que tambien se les dio tierra de la Acequia Madre para el rumbo del Oriente:

No. 1, á Maria de Estrada.
Pasa a la buelta.
No. 2, á Miguel de Gortari.
No. 3, á George de los Santos.
No. 4, á Jose Ant'o Martines.
No. 5, á Jose Ygnacio Galvan.
No. 6, á Fermin Ramires.
No. 7, á Juana Gamboa.
No. 8, á Juan de los Rios.
No. 9, á Matiana Galindo.

Siguen los vecinos de este pres'o que se agregaron a los antecedentes:

No. 1, á Jose Flores.
No. 2, á Roberto Nuñez.

Y con respecto a hallarse concluida esta diligencia, que se pase por mi al Jusgado superior del Señor Gov'or de donde emano mi comision para los efectos que se an conbenientes, asi lo proveo, mando y firmo Yo Don Juan Jose de la Santa. Rexidor de
515 cano del ayuntamiento de esta nominada villa y alcalde ordinario de primero volo por privilegio de mi empleo, y ansencia del propietario, actuando por receptoria con testigos de ass'a a falta de todo escribano que no le hai en los terminos de la ley, y en il presente papel comun por no haverlo del cellado firmando y gualmente el procurador G'ral D'n Joachin Flores y el agrimensor Don Pedro Huisar como concurrente el primero, y actor el segundo, en esta referida villa en dho dia mes y año de que doy fée.

JUAN J'PH DE LA SANTA.
PEDRO HUISAR.
JOACHIN FLORES.

De ass'a, LUIS FLORES.
De ass'a, JOSE ANTONIO ROMERO.

En la villa de S'n Fernando y Pres'o de San Ant'o de Bexar y en veinte dias del mes de Marzo deste corriente año de mil setecientos noventa y tres; Yo D'n Manuel Muños Then'te Cor'l de Cavalleria

de los R'l Exercitos de S. M. Gov'or de esta Prov'a de los Texas y comisionado para la practica de esta diligencia actuando por receptoria con testigos de asistencia a falta de todo escribano que no lo ay en los terminos de la ley, haviendo visto los diligencias practicadas por D'n Juan Jose de la Santa y D'n Joaq'n Flores el primero Rexidor decano del ayuntam'to de esta villa y alcalde ordinario ynterino por ausencia del propietario, y el segundo Procurador General, sobre el sorteo de las tierras repartidas a los vecinos
516 que fueron de los Adaes, y se executo antes de mimarcho a la costa. He venido el aprobarla con respecto aque el apoderado de d'hos vecinos D'n Bern'do Zervantes, asienta que estan conformes sus poderdantes y se dan por aposecionados de d'has tierras, y en su consequencia se da por concluso este expediente que se pasara a manos de el S'or Com'te G'ral p'a que en su vista se serva prevenir aesto Gov'no lo que sea de su superior agrado: Por este anto que firmo yo d'ho Gov'or con el apoderado D'n Bernardo Zervantes y testigos de asistencia asi lo determiné y en este papel comun por no haberlo de ningun sello, lo que certifico y de todo doy fée.

MANUEL MUÑOS.
BERNARDO ZERVANTES.

De ass'a, JOSE DE JESUS MANSOLO.
De ass'a, VICENTE DE LA CUESTA.

Razon.

Respecto a que el reparto de tierras a los Gudios que fueron de la mision secularizada de S'n Ant'o Valero, se le a fixado por separado en las diligencias de inventario de lo recibido de d'ha mision parense las presentes, al S'or Comandante General Brig'r D'n Pedro de Nava como previene en su orden de primero de Junio proximo pasado acompañando las con oficio de contestacion en el dia de la fecha.

S'n Ant'o de Bexar 27 de Julio de 1793.

MUÑOS.

R. en y de Drede 93, *No.* 108.

Conforme a dictamen del S'r Asesor he mandado Archivar el Expediente sobre repartimvento de tierras hecho en la mision
517 de San Antonio Valero a los vecinos que fueron del extingido presidio de los Adaes, y a consequencia del mismo vuelvo a vm. Originales las diligencias respectivas a este asunto que me dirigio con oficio numero 43 de 27 de Julio ultimo, para que colocandolas vm. en el archivo del Govierno de su cargo tengan las partes interesadas mas proximo e inmediato el recurso a fin de que se les den los testimonios que pidan y necesiten para que les sirvan de titulo de pertenencia: Habiendo yo prevenido se dexe en el citado expediente copia de ellas para constancia. Dios gue a vm. m's a's.

Chihuagua 28 de Octubre de 1793.

PEDRO DE NAVA.

S'r Governador de la Provincia de Texas:

En la villa de S'n Fernando y Pres'o de S'n Ant'o de Bexar en siete dias del mes de Diciembre de mil setecientos noventa y tres. Yo Don Manuel Muños teniente Coronel de Cav'a de los R's Exercitos Governado Politico y Militar por S. M. de esta Prov'a de los Texas, y sub delegado en las dos causas de Hasienda y Guerra. Haviendo recibido esta superior provid'a del S'r Com'te G'ral de Prov's Ynt'o Mariscal de Campo D'n Pedro de Nava, dixe que se acumule al expediente de que trata, y pongase en el archivo de este Gov'no p'a dar los testimonios que se pidan por las partes de los Adaeseños y demos vez'os comprehendidos en el expediente: Asi lo determine y firme como d'ho es.

MANUEL MUÑOS.

De ass'a, JOSE GERVACIO SILVA.
De ass'a, VICENTE DE LA CUESTA.

518 En dose de Marzo de 1795, se saco testimonio de este expediente a pedimento de Diego Herrera y se le entrego. En 16 de d'ho mes y año se saco para Bernardo Zervantes y se le entrego. En 22 de Abril de d'ho año se saco para Matios del Rio y se le entregó. En d'ho dia mes y año se saco para Jose Antonio del Toro alios chiver y se le entrego. En 22 de iden se saco para Lorenzo Ramos y se le entrego. El ocho de mayo del mismo año de 95 se saco para Maria de Estrada y se le entrego. En nuebe de d'ho del mismo año se saco para Miguel Losoya y se le entrego. En 22 de iden del citado año se saco p'a Juan Martines, y se le entrego. Paso a v. m. en 11 fox'c utiles el Expediente Ynstruido s're el reparto de tierras a los vesinos que fueron del Pres'o de los Adaes, mismo que diriji a la comandancia general en 27 de Julio de 93, con oficio de aquella foxas No. 43. Este le debolbio aquella superioridad de esta Gov'r p'a que le tengan las partes interesadas mas prouto. Al caso p'a pedir testimonios que puedan servirles de titulo y a este efecto han ocurrido dos de aquellos con las representaciones respectivas, y hallandome yo quebrantado de salud y con asumptos interesantes al servicio he venido en autorizar a v. m. de los facultades necesarias a mas de las g'e le son concedidas por el honorifico enpleo de promotor fiscal para g'e disponga se saquen los testimonios que piden de presente los individuos de que acompaño las representaciones y consecutivam'te pasare a v. m. las demas que lleguen a mis manos con lo que tendra el debido cumplim'to la orñ del S'or Com'te G'ral de 2 de Oct'e de 939°, que corre en el citado expediente
519 dandome aviso del recibo de este y de quedar intendido del el para su cumplimiento. Dios guarde a v. m. m's a's.

San Antonio de Bexar, 10 de Marzo de 1795.

MANUEL MUÑOS.

STATE OF TEXAS, *Bexar County:*

I, Thad. W. Smith, clerk of the county court in and for said county and State, do hereby certify that the foregoing and annexed 24¼ pages in the Spanish language is a true and correct copy from the

original Spanish archives and records in my office, of which I am the lawfull possessor.

Witness my hand and official seal, at office in San Antonio, this 4th day of March, A. D. 1884.

[SEAL.] THAD. W. SMITH,
County Clerk, Bexar County, Texas.

Endorsed: No. 53. Sabariego *et al. vs.* Maverick. Filed M'ch 11th, 1884. W. C. Robards, clerk, by N. H. Kirkland, dep'y.

YNTENDENCIA DE SAN LUIS POTOSI, *Año de* 1817.

[Spanish Seal of Ferd. VII.] No vale lo Tachado. [Spanish Seal of Ferd. VII.]

El S'or Gobernador de la Provincia de Texas, dando cuenta con documentos de las fincas embargadas á los Reveldes en Bexar, y de su estado, consulta si podran venderse alguna de ellas.

Relacion de los bienes confiscados a los reveldes de esta
520 ciudad de orden Com'd G'l Brig'r D. Joaquin de Arredondo, segun manifiesta la relacion o ynbentario hecho por el Capitan D'n Fran'c del Prado, y Arse fecha 27 de Octubre de 1814 q. copio y aque me remito.

520	*Abaluos.*	*Asaver.*
	F'co Arocha una casa baluada, de piedra	1,838
	Vicente Travieso, ydem, ydem, "	5,545
	Manuel Delgado " " "	1,230.4
	Juan Berramendi " " fue debuelta de ord. del S'r Gen'l	2,746.4
Fue cambiadu deorden superior.	Antonio Baca la causa que era del Alferas D'n Jose Granado, valuado	3,000
	Jose Manuel Delgado, un cuarto de piedro, valuada se bendio	300
	Jose Delgado, ydem, ydem, valuada se bendio	320
	Clemente Delgado, una casa de piedra	975
	F'co Rodriguez, un cuarto de piedra, "se bendio"	250
	Juan Manuel Enriques, un "	115.4
	Manuel Peres, un cuarto, ydem	130
	Manuel Perez, cuatro jocales contiguos a d'ho quarto	122
	Miguel del Rio, un cuarto de piedra	109.4
	Erasmo Seguin, una casa de piedra, se debolbio de orden del ynt'e	2,715
	Tomas Arocha, ydem, ydem	380.4
	La casa que por herencia corresponde a los Arochas	4,737
	Lorenzo Ramos, un jocal	30
	Jose Ant'o Villegas, ydem	30
	Domingo Diego Acosta, ydem	30
	Claudio Ramirez, lo fabricado en un xacal	36
	F'co Borrego, un xacal	50
	Antonio Baca, dos solares	32
	Yden, 35 vs. de tierra	43
	Yden, 69 vs. (de tierra) mas	127.4

Antonio Baca, 46 vs. mas de tierra ---------- 84
Yden, 84 vs. de frente y 54 vs. de fondo con dos jocales ---------- 136
Jose Antonio Curbelo, un xacal y cocina ---------- 75.4
521 El Frances Gaulet, una casa de Madeira ---------- 197
Jose Sanchez, un jocal viego ---------- 20
Jose Leal, un solar con 11 vs. de frente y 116 de fondo -- 30
Gertrudes Montes, un xacal viejo ---------- 38
Manuel Delgado, un solar con 40 vs. de frente y 50 fondo- 80
Ydem, una casa de piedra ---------- 300
Antonio Castro, un jocal ---------- 40
Louis Gallardo, un ydem ---------- 18
F'co Carmona, un chamaquero ---------- 166.2
Joaquin del Toro, un xacal sin fondo ---------- 12
Gabriel del O., un solar ---------- 80
F'co Martinez, un xacal viejo con solar ---------- 46
F'co Travieso, dos solares ---------- 82
Antonio Carmona, un xacal viego ---------- 50
Vicente Tarin, un xacal destruido ---------- 19
Nepomuceno San Miguel, un solar en el Alamo ---------- 25
Antonio Martinez, un xacal ---------- 110
Yden, suerte de tierra con media dula de agua ---------- 100
Ydem, un solar en el Alamo ---------- 121
Cayetano Dominguez, una suerte de tierra con media dula 100
Reechard Frances, una casa de Madeira en ---------- 229
Bernardo Benites, un solar en ---------- 40
Luciano Menchaca, un xacal ---------- 73.4
Pedro de Acosta, un xacal con solar ---------- 112
F'co Arocha, un solar y una suerte de tierra ---------- 240
Manuel Delgado, 4 suertes de tierra ---------- 316.5.4
Antonio Baca, cinco suertes de tierra y dos y media de agua ---------- 500
Yden, una esclava, avaluada en ---------- 165
Jose Delgado, cinco horas de agua con su correspondiente tierra ---------- 40
Lorenzo Ramos, media dula de agua ---------- 100
Domingo Diego Acosta, yden ---------- 100
F'co Borrego, yden ---------- 100
522 F'co Carmona, yden ---------- 100
Miguel Losoya, yden ---------- 100
Joaquin Delgado, digo leal dos dulas de agua y 4 suertes de tierra ---------- 316.5.4
Juan Martinez, media dula de agua ---------- 100
El Frances Laboubi, quatro esclavas ---------- 340
Pedro Longavello, seis oras de agua ---------- 50
Juan Cortes, media dula de agua ---------- 100
Antonio Martinez, yden ---------- 100.0.0
Cayetano Dominguez, yden ---------- 100
Jose Cuebas ---------- 100

Jose Flores Baldes, media dula de agua y un pedaso de labor tierra	225
Marcelo Servantes, 4 oras de agua	17
Juan Diego veles un felar	25
Por 118 cavezos de ganado menor	85
Por 4,567 yden de mayor	27,242
Por 916 fanegas de mais, que a copio el Cap'n D'n Jesus Cantu, a 5 p's	4,580
Total general	62,642.6.8

Rebajas que se hacen a este capital porlo bendido y donado como aparece por los relos.

Por la relacion No. 5 se rebajan 502 p's importe de tres parte de un cuarto bendido a D'n Jose Rosi una casa de Med'a a D'n Mariano Lopez y un xacal a D'n Antonio Vilano	502
Por la No. 6, 1,133 p's de la tierras de labor bendidos	1,133.2.8
Por otra son, 205 p's de una esclava bendida y otra muerta	205
Por la No. 9, 975 p's valor de una casa donada	975
Por la No. 10, se rebajan 3,876 pesos de 646 reces que consumio el ejescito	3,876
Por la No. 11, 4,580 valor de 166 fanegas de mais por compesac y consumedad en la tropa	4,580
Por 5,545 pesos importe de la casa del perfido vicente travieso fincada por otra pe a segun la intencion del Señor comandante general g'e se entreguen a D'n Mariano Lopez de cuenta de la fabrica	5,545
Por 116 p's 2 reales del chamaquero de F'co Carmona dado a Jose Pineda en ordende decreto del S'r com'te general f'ha 14 de Feb'o de este año Bex. 27 de Octubre de 1814	162.2
Diferencia	45,560 2

523

F'CO DEL PRADO Y ARCE.
JUAN FRAN'CO DE COLLANTES.

Ynbentario general y copia de los vienes pertenecientes al Rey y confiscados a los nsurjentes de esta Provincia, los quales recivi de mi antesesor el teniente D'n Juan Antonio Padilla y existen hoy.

A saver:

La casa de D'n F'co Arocha, con los piezas q. expresa el inbentario.

La yden de vicente travieso con saguan, sala dos recamaras, tienda y trast'do.

La casa de Manuel Delgado con saguan, sala recamara cuarto y un chamaquero; La de Antonio Baca q'e era del Alferes Granado con saguan dos salos recamara y dos cuartos. La de Jose Manuel Delgado con un cuarto mui desteriorado de piedra. La de F'co Rodriguez con un cuarto de piedra medio caido y amenasaudo ruina. La de Juan Manuel Enriques un cuarto de piedra inavitado. Manuel Peres un cuarto de piedra y antiguo quarto xacal,

desteriorados. Miguel del Rio, un quarto sen serradura. La casa de Erasmo Seguin con sala seis p'zas as incluso la cosina. La que por herencia corresponde alos Arochas fabricada de piedra, con saguan sala recamara y un cuarto. La media casa de Tomas Arocha
524 con sala y un cuarto.

Por 22⅛ varas de tierra y 38 de fondo en que habia fabricado dos xacales de Lorenzo Ramos.

Por 12 vs. de frente y 30 de fondo en que habia un xacal de Jose Villegas. Un xacal de Francisco Borrego con 132 vs. de frente y fondo hasta el rio. D'n Antonio Baca dos solares compuestos de siguientes un pedaso de tierra sin fabrica con 32 vs. de frente y fondo hasta el rio. Yden, 35 vs. de tierra con frente y fondo hasta el rio, en las q. habia 2 xacales aruinados. Yden, 54 vs. de frente a lindar con el Rio y Puente con fondo hasta el mismo rio. Yden, 35 vs. a la parte del sur con fondo hasta el rio. Yden, 46 vs. de frente con fondo hasta el rio, en q. havia tres xacales aruinados. Yden, 84 vs. de frente y 54 de fondo en que habia dos xacales. Un xacal con su cosina de Jose Ant'o Curbelo con 43 vs. de frente y fondo hasta el rio. Jose Sanches, 13 vs. de tierra un q. huvo un xacal viejo. Jose Leal, un solar con 17 vs. de frente y 46 vs. de fondo. Gertrudes Montes, un pedaso de tierra en q. huvo un pedaso de tierra de Manuel Delgado, un solar con 40 vs. de frente y 50 de fondo. Yden, una casa de piedra con 8 vs. de frente y 50 de fondo. Antonio Castro, un pedaso de tierra en la calle de las Flores, con 12 vs. de frente y 54 de fondo. Gabriel de la O., un solar con 80 vs. en cuadro. F'co Martinez, un solar con 46 vs. de frente y 60 de fondo. Antonio Carmona, un solar con 25 vs. de frente y 30 de fondo. Vicente Tarin, 5½ vs. de tierra de frente y 25 de fondo. Antonio Martinez, un solar con 109 vs. de frente y 118 de fondo.
525 Del Estranjero Rechard, un solar frente a los cuarteles con 200 vs. de frente y fondo hasta rio. D'n Bernardo Benites, un solar; de Luciano Menchaco, un xacal con 35 vs. de frente y 50 de fondo; de Pedro Acosta, un jocal viejo con 42 vs. de frente y fondo hasta el rio; de F'co Arocha, un solar en el Paso de los Apaches; de yden, un dia de agua con su correspondiente tierra; de Antonio Baca, una suerte de tierra; de Jose Delgádo, 5 oras de agua; de Lorenzo Ramos, media dula de agua; de Domingo Diego, yden; de Fr'co Borrego, yd.; F'co Carmona, yden; Miguel Losoya, yd.; Manuel Martinez, yd.; Pedro *Pedro* Longueville, seis horas de agua; Juan Cortes, media dula de agua; Cayetano Domingues, yd.; Jose Flores, yd.; Marcelo Cervantes, 4 oras de agua; Juan Diego, un telar viejo.

NOTA.—Todos los demas vienes embargados seg'n manifiesta la relacion formada de D'n Fr'co del Prado q. antecede, en copia de esta relacion de existencias q'e he recibido yo de mi antecesor, Teniente D. Juan Antonio Padilla q. faltan, responderan mis antecesores encargodos, por no haverseme dado, ami conocimiento, de nada y yo lo hare de las existencias que recevi de d'ho Padilla que aparecen en esta ultima relacion.

Bexar, 19 de Sep'e de 1817.

JUAN FRANCISCO DE COLLANTES.

Relacion de las Casas del Rey q. hanganado, renta, y destino que hantenido las demas e envercion del producto de la renta desde 30 de Dic'bre, 1816, hasta fines del presente mes de la fecha.

PESOS, *R. C.*

526 La casa de F'co Arocha haservido de cuartel de la comp'a de milicias de Texas de or'ñ sup'r.

La de Vicente Travieso sirve de quartel de los piquetes auxiliares de Monclova.

La casa de Manuel Delgado ha estado rentada de 30 de Diciembre de 1816 hasta 30 de Junio de 1817, a razon de cinco p's mensuales y desde este tiempo se destino para encerar smillas de Avilitacion ---------- 30.

La casa de Jose Manuel Delgado ha estado inavitado por su malestado y haviendose arruinado despues, el S'r Gov'd'r de la pieda para redificacion de la Garita.

La de F'co Rodriguez en los mismos terminos que la anterior.

La de Jnan Manuel Enriguez inavitada p'r su ruina.

La de Manuel Perez desde 30 de D're hasta el ultimo de este ha rentado un peso cada mes ---------- 9.

La de Miguel del Rio inhavitada.

La de Erasmo Seguin destinada para Escuela publica p'r ordo del S'r Com'te G'ral.

La de los Arochas rentada en 4 p's desde 30 de D're hasta ultimo de este ---------- 36.

75.

La de Tomas Arocha sin renta por su recomposicion.

La de Berramendi debuelta a este yndividuo.

La del Alferes Granados q. cambio p'r la del traidor Baca Agregada, al Gov'no La de Manuel Delgado sin renta por q. se mantenga en buen estado.

NOTA.—Que los Chamaqueros y Xacales q. existen p'r ser fabricados de madera son ya inservibles y p'r consiguiente, no hay q'n los rente y algo ha estado ocupado por familias de la tropa, sinrenta por q. no se aruinen.

Ymbercion de la Producido de las Casas.

Por las luces de Casas de 1° de D're hasta fin de Junio, a
527 razon de g. p's 5 r's 6 q'r por mes ---------- 67.6.6

Por las luces p'a las guardias de plasa de fin de Junio hasta fin del presento a razon de 2 pesos 7 r's cada mes ---------- 20.5.

88.3.6

Debe el fondo de casas ---------- 13.3.6

JUAN FRANC'O DE COLLANTES.

En 20 del mismo sele acuio el recivo ofreciendo avisarle las resultas.

En esta cuidad hay varias casas sequestradas a los ynsurjentes q. tuvieron parte en la revolucion de esta provincia, acaecida en el año pasado de 811 pero todas ellas estan tan desterrioradas q. incervublemente se ban inutilizando del todo respecto a que jamos se han recomfinesto p'r falta de fondo con q. verificarlo haviendo sido havitadas unicamente algunas por yndividuos militares q. por sus conosidas excaseses unica se han hallado con proporcioner p'a satisfacer la renta. Asi esque a un q. en aquel tiempo abaluaron p'r comisionados nombrados al efecto segun el ynbentario q. existe en este archivo, p'r las cantidades q. se consideraron combatibles en el dia no fureden tener la mitad del valor q. en aquel tiempo, y algunas ni la tercera p'te, y considerando q. de en dia *en dia* se aumenta mas sus minos, espero se sirva v's decirme se podran benderse algunas de ellas en caso de que haya compradores, y si por los causas indicados se les podra hacer alguna rebaja del precio en que estan abaluados, en la inteligencia de q. ahora mismo se me ha presentado marchante p'a una que consiste su abaluo en trescientos y
528 ochenta pesos, pero no acomodandole el precio, solicita se le rebaje alguna parte de el, por estar la casa mensionada absolutamente inutilisada sobre cuyos puntos, y considerando este ramo dependiente de la autoridad de esa yntendencia procederé con arreglo a las prevenciones q'e vs. me dicte sobre la materia. Dios gñe a vs. muchos años.

Bexar y F'bre 14 de 1817.

ANTONIO MARTINEZ,
San Luis.

S'or Yntend'te do San Luis Potosi.

Un quartillo.
Sello quarto, un quartillo.
Años de mil ochocientos.
Calorze y quinze.

[Hisp. Rex. Ferd. VII.] No vale lo tachado.
[Fernando VII, D. C. M., Anos 1817. S. 4. Un Quartillo.]

Potosi, 20 *de Octubre de* 1817.

Agreguese el oficio del S'or Gobernador de la Prov'a de Texas, ymbentario y relaciones que a el acompaña sobre casas embargadas a los rebeldes en Bexar, consultando si podran venderse algunas de ellas: y pase todo a consulta del asesor para las providencias que convengan. El S'or Yntendente corregidor de esta Provincia D. Manuel Jacinto de Acevedo, asi lo decreto, mando y firmo con testigos de asist'a a falta de escribano de que da fée.

MANUEL de ACEVEDO.

De ass'a, MAN. JOSE DOMING'Z,
S'or Yntendente.
De ass'a, JOSE MARIA BURAL.

El art'o 82 de la r'l ordenanza de 4 de Dic. de 1786 da
529 facultad para el caso de que en el territorio, de esta prov'a Megara a confiscarse por sentencia cual esquiera bienes y para

q. sea el privativo cargo de vs. proceder a la enagenacion y cobro de su importe y sobre el conosim'to de todos los pleitos e instancias que despues se suscitaren: y sobre este mismo asunto se ha expedido posteriorm'te orñ. superior refiriendose a los bienes q. se confiscaren a los rebeldes. En tal supuesto y en el de q. el S'r Governador de la Prov'a de Texas se refiere en el principio de la relacion da 19 de Sept. de este año a q. la confiscacion de los bienes contenidos en ella se ha hecho de orñ. del S'r Comand'te G'ral de la Prov'a de Oriente ya es el caso sobre q. dispone el cilado art'o y en su consequencia se ha de servir vs. mandar que las fincas confiscadas por el deteriodo a q. se asienta q. han benido se buelban a avaluar por dos peritos juramentados castigandose asi los precios q. anteriorm'te se les dieron para facilitar su mas pronta venta y q. no sea consiguiente su total ruina con perjuicio de la R'l Hacienda, y asi avaluadas estos fincas salgan desde luego al pregon por el termino de nueve dias celebrandose despues tres.

Almonedas en la ciudad de San Antonio de Bexar y en la ultima el remote en el mejor postor o postores parciales q'e se presenten con los correspond'tes papeles de abono de sujetos que puedan consionar sus posturas y estas seran buenos y se podran aceptar para hacer el remate en ellas quando no se presenten otros se exedieren en poco mas de los dos terceras partes del avaluo por ser esta la practica observada comunmente en todos los tribunales: y de esta determinacion se serbira vs. dar aviso a d'ho S'or Comd'te G'ral, remitiendose despues este exped'te para los indicados efectos al expresado S'or Gobernador de Bexar quien dará cuenta de las resultas a esta yntend'a en su devido tiempo.

S'n Luis Potosi, Oct. 29, de 1817.

LIC'DO JOSEF RUIZ DE AGUIERRE.

SAN LUIS POTOSI, *Oct.* 31 *de* 1817.

Como consulta el asesor, lo que se comnuique al S. Comand'te G'ral de los Prov'a de Oriente p'a su intelig'a. Asi su sria lo decretó y firmo de que doy fé.

ACEVEDO.

De ass'a, JUAN JOSE DOMING'Z.
De ass'a, JOSÉ MARIA BURAL.

Con la misma fecha se libro oficio al S. Comand'te G'ral de los Prov'a de Oriente insertandole el precedente dictamen: Doy fee.

Z'R.

Relacion que manifiestan los vienes que fueron sequestrados a los rebeldes de la Cap'o de Texas. Segun el ynbentario que obra en el archivo de este Gov'no con expresion de lo que despues se ha debuelto donado, y aruinado y ultimamente Mevado la creciente del Rio en la ynundacion del 5 de Julio de este año.

A saver:

F'co Arocho una casa de piedra a espaldos de la ga del principal compuesta de sala y cuarto a estado ocupada de la comp'a de milicias y despues lo esta con el pangud.

Vicente Travieso uno casa de piedra ha estado ocupoda enquent'l de la Comp'a de Bexar y aora cededo interinamente al cavildo por la yntendencia y a padecido mucho ruino por la creciente.

531 Manuel Delgado una casa de piedra Está metad arruinado por la creciente.

Juan Berramendi, yd. fue debuelta por orden del S'r Com'te G'ral.

Antonio Baca, yd. fue cambiada p'r Sup'r Orñ del S'r Com. por otra que se reunio a la de Gov.

Jose Manuel Delgado un quarto de piedra se arruino a principios de 1818. Jose Delgodo un quarto de piedra, fue vendido a D. Jose Rosi por orñ del Comd'te General. Clemente Delgodo una casa de piedra fue donada a Don Jose Rosi por la mismo orñ. F'co Rodriguez, un quarto de piedra se arnino en principio de 1818.

Juan Man'l Enriques, un quarto de piedra esta inavitable y lo ocupa Carlos Peres desde el p'o 1818.

Man'l Peres 4 jocoles arruinados que y a no existen por haverselos Mebado la corriente.

Miguel del Rio un quarto de piedra, no existe por haverle arruinado la creciente.

D. Erasmo Seguin una casa de piedra se le bolvio p'r orden de la Ynt'a arentado p'r haver estado sedido a la Escuela publica de orn Sup'r.

Tomas Arocha una casa de piedra ha estado sin inquilino y aora la ocupa a la Avililocion de Bexar.

Lade los Arochas una casa de piedra a estado ocupada con los Ayudantes Ymp'ores D'n Man'l Pardo y despues con D'n Ant'o Puertos.

Lorenzo Ramos, un xacal q. estaba inavitable y ya no existe p'r haverselo Mevado la creciente. Jose Ant'o Billegos, yd. y no existe p'r haverselo Mebado la creciente. Domingo Acosta un xacal yd. yd. Claudio Ramires yd. yd.

532 F'co Borrego uno yden yd. lo ocupo desde 1° de Sept'e de 1818 el solado de Bexar Flugencio Bustillo y ya no existe p'r haverselo Mevado la creciente.

Antonio Baca dos solares, estubieron ocupados desde 1° de Sept. de 1816 hasta la creciente q'e los arruino y rentaron los dos 6 p's cada año.

Yd. 35 var's de tierra rentaron lo mismo, desde 1° de Julio de 1817, hasta la creciente q'e las dejo arruinados. Yd. 35 id. con tres xacales aruinados hace tiempo. Yd. 46 id. con dos xacales sin arendatario se los llebo el rio. Yd. 84 id. con dos xacales sur id. id. se los llebo yd. Antonio Curbelo, un xacal lo unpo desde 1° de Sep'te de 1818, hasta la creciente el. Soldado de Bexar F'co Rodriguez, y ya no existen por haverselo llebado el rio. El Francis Gaulet, una casa de Madera, fue vendida a D'n Mariano Lopez p'r orden del S'or Com'te G'ral: Jose Sanches, un xacal fere vendido en 15 p's a D'n Antonio Hernandez, Febrero de 1817, p'r orden del Gov'no Ynterino D'n Ygnacio Perez.

Gertrudes Montes, un xacal aruinado y la tierra Valdia. Manuel Delgado, un solar sin arendatario. Yden, una casa de piedra la

ocupaba su dueño. Juan Galvan, sin renta por orñ. del S'or Comand'te G'ral. Antonio Castro, un xacal fue vendido p'r el Ten'te de Bexar. Don Jose Zandoval, un diez fanegas de mais se halla ansente y debe responder del. Luis Gallardo, un xacal, fue vendido por la junta de embargo. F'co Carmona, un chamaquero, fue vendido a Jose Peneda p'r orñ. del S'or Comd'te G'ral.

Joaquin del Toro, un xacal, vendido p'r la junta de embargo.

533 Gabriel de la Ho., un solar, no hay quien lo ocupe.

F'co Martinez, un xacal, id. id. id.

F'co Travieso, dos xacales; digo solares vendidos la junta de embargo. Antonio Carmona, un xacal—existe la tierra sin arriendo; Vicente Tarin, un xacal, no existe, y si la tierra Valdia. Nopomuceno San Miguel, un solar—lo vendio la junta de embargo.

Antonio Martinez, un xacal, lo vendio la misma junta.

Yd., una suerte de tierra, vendido por d'ha junta.

Yd., un solar, vendido por la referida junta.

Cayetano Dominguez, una suerte de tierra—vendida a D'n Vicente Micheli por el comicionado de embargo.

Rechard (Frances), una casa de Madeira se arruino y el solar lo ha tenido el herrero Juan Leal q'e murio sin tener con q. pogar. Bernardo Benites, un solar—existe sin arendamiento.

Luciano Menchaca, un xacal, se aruino y la tierra esta sin cultivo. Pedro Acosta, un xacal se dido hasta que se venda, sin renta al Espia de esta capital p'r orñ. de los Governadores Anteriores. Fran'co Arocha, un solar no hay quien lo ocup'e p'r su mala situacion.

Yd., una suerte de tierra se halla en el mismo casa.

Manuel Delgado, 4 suertes, vendidas el padre Zambrano en tiempo del S'r Ge'ral.

Antonio Baca, 5 suertes dadas las cuatro por el S'r G'ral a Don Jose Granados y existe una restando dos fanegas de mais. Jose Leal, un solar seledio a su madre de orñ. de d'ho S'or G'ral.

Antonio Baca, una esclava fue vendida de orñ. del mismo G'ral asu misma Ana. Jose Delgado, 5 oras de agua con tierra, existen sin arendatario.

534 Lorenzo Ramos media dula de agua con tierra arendado en fanega de mais. Domingo de Acosta media dula de agua arendado en yden Fran'co Borego.

Yd.	yd.	yd.	"	"	"
Fran'co Carmona	yd.	yd.	"	"	"
Miguel Losoya	yd.	yd.	"	"	"

Joaquin Leal dos dulos con tierra vend's al Padre Zambrano de ord. del G'ral. Juan Martines media dula arendada en una fanega de mais. El Frances Lamona 4 esclavas q. no existen des de q. estubo aqui el S'r G'ral. Pedro Longuevelle C. oras de agua arend's en f'a de mais.

Juan Cortes media dula se volbio permal embargada. Antonio Martines ½ yd. se bendio al Barron de Bastrop por el encargo de embargo. Jose Cuebas media dula arendada en una fanega de mais. Jose Flores Valdes, media dula arendada en una fanega mais y el rincon bendido a D. Erasmo Seguin por el encargodo de

embargo. Marcelo Cervantes, 4 oras de agua sin ariendo. Juan Diego Valdes un Telar Viejo selo Mebo la creciente. Yd. 118 cabezas ganado menor se los comio la tropa del S'r G'ral; 4,567 cabezas de ganado mayor consumido por el ejercito yd. yd. 916 fanegas mais consumidas por el mismo.

Bexar 10 de Septe de 1819.

THE STATE OF TEXAS, *County of Bexar:*

I, Thad. W. Smith, county clerk of Bexar county, do hereby certify that the foregoing and annexed 18 pages in the Spanish language is a true and correct copy from the original Spanish
535 archives and records in my office of which I am the lawfull possessor.

Witness my hand and official seal, at office in San Antonio, this 10th day of March, A. D. 1884.

[SEAL.] THAD. W. SMITH,
County Clerk, Bexar County, Texas.

Endorsed: No. 53. Sabariego *et als. vs.* Maverick. Filed M'ch 13 1884. W. C. Robards, cl'k.

YNTEND'A DE S'N LUIS POTOSI, *Año de* 1819.

El Gov'or de Texas avisa el deterioró q'e han sufrido las fincas embargadas a los ynsurg'tes por la inundacion que sufrio la ciud'd de Bexar el dia cinco de Julio.

Relacion de las casas y jocales pertenecientes a la r'l hacienda por sequestradas a los reveldes que han padecido ruina en la ynundacion de la ciudad de Bexar acalcida la mañana del 5 de Julio.

Casas y Jocales.

La de Vic'te Travieso sita en la Plasa Maior	Ha que dado destrozada y de necesidad se arruinara muy luego.
La de Jose Man'l Delgado que era un cuarto de piedra en la esquina de la plaza rumbo al sur.	Arruinada autes de la ynundacia.
Fran'co Rod riguez ung'to de piedra sito en la calle de los Curvelos.	Desplomado.
Juan Man'l Enriques un id. en la misma calle.	Ar-uinado parte y lo restante desplomora luego.
Man'l Perez, 4 jocales sitos en el mismo paraje.	Se los llebo el rio.

536 Miguel del Rio, un q'to de piedra sito en la cuadra del sur de la Plaza de Armas—arruinado.

Lorenzo Ramos, un jocal en el Potrero—se lo llebo el rio.

Jose Antonio Villegos, un jocal en yd. yd.

Domingo Diego Montes, un jocal en yd. ydem.

Fran'co Borrego, un jocal en yd. ydem.

Antonio Baca, dos solares junto el puente en el Potrero—se lo llebo el rio los jocales y el terreno ha que dado incultibable. Ydem, del mismo otros dos jocales con fondo hasta el rio—se los llebo la erecte. Yd., del mismo 35 vs. de tierra a la parte del sur con 3 jocales—aruinados antes de la ynundacion. Yd., del mismo 46 vs. de frente con fondo h'ta el rio y en mas dos jocales—se los llebo el rio.

Yd., del mismo 84 vs. de fr'te y 50 de fondo y en mas dos jocales—se los llebo el rio. Jose Anton'o Curbelo, un jocal en el ojo de agua del puente viejo—se los llebo el rio. Rechard Frances, una casa de Madeira junto al rio—ydem.

Bexar, 8 de Julio de 1819.

JOSE FLORES DE ABREGO.
MARTINEZ.

La mañana del 5 del presente de resultas de una terrible manga de agua que revento a la parte del norte de esta ciudad tomo tanta este rio que habiendose salido de su caja causo una general inundacion de que jamas ha habido ejemplar en esta prov'a haviendo dejado la ciudad enterminos que puede decirse, no existe y sus habitantes (los que no fueron victimas del furor de las aguas) reducidos a la indigencia mas lamentable, en cuya inundacion se han arruinado las fincas que por sequestradas pertenecen a la r'l hacienda de las cuales para su debido conocim'to acompaño a vs. relacion. La infeliz situacion de estos moradores no me ha permitido poner estos vienes en venta como vs. yo lo tierra dispuesto y aora con mas razon se dificultara, y encreiblemente se aruinaran todas las casas que han que dado por haberlas dejado la creciente muy que brantadas, pues hasta las suertes de tierra de sembradio no admiten ya cultibo alguno, en cuia atencion tenga vs. la bondad de deliberar como mejor le paresca a fin de que no lo pierda todo la r'l hacienda.

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Dios gñe a vs. m's a's. Bexar, 9 de Julio de 1819.

ANTON'O MARTINEZ.

S'or yntend'te Manuel Asevedo.

[Hispana Kum Rex. Carolus IV. D. C. Un Quartillo.]
[Fernando VII. D. D., 1810–1811. S. 4.]
[Fernando VII. D. C., 1810–1811. S. 4. Un Quartillo.]

Un quartillo.
Sello quarto, un quartillo.
Años de mil ochocientos.
Seis y mil ochocientos y siete.

LUIS POTOSI, *Sep'e* 13 *de* 1819.

Avisese al Governador de la Provincia de Texas quedar imperesto esta yntend'a de la ocurrencia que refiere el aut'or oficio y que en el supuesto de haver desmerecido tanto las fincas de que trata la lista que acompaña, y arruinandose enteram'te otras haga se abaluen de nuebo por peritos juramentodos en forma, y so repitan pregones p'a su remate en el mejor postor. Arreglandose en lo que lo permita d'ha ocurrencia a la Providencia que está dada en el particular, constante en el exp'te que se le remitio con f'ha treinta y uno de Octubre del año de ochocientos dies y siete. Asi

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lo proveyo y firmó el S'or Yntend'te Correg'or de esta Prov'a de acuerdo con su Yn'te Letrado ante mi de que doy fé

MANUEL DE ACEVEDO.

Lic'do Josef Ruis de Aguirre.

Ante mi Antonio Maria Suares, Ess'o R'l y ten'te mil de Estado. Con f'ha dies y siete del mismo se libro el oficio prevenido doy fé.

SUARES.

Relacion que manifiesta los vienes que en el dia de la f'ha existen de los embargados a los reveldes de esta capital de Texas asaver. Fran'co Arocha una casa de piedra a espaldas de la g'ña del Pral compuesta de sala y quarto con 22 var's de frente y 86 de fondo. Vicente Travieso una casa de piedra sita en la Plaza compuesta de saguan, sala, dos recamaras tienda y trastienda. Manuel Delgado una casa de piedra sita en la calle de la orilla del rio que sale a Palacio, compuesta de saguan, sala, recamara y quarto, con 39 var's de frente y 16 de fondo. Juan Man'l Enriquez, un quarto de piedra sito en la calle de los Curvelos con 6 va's de frente y fondo hasta el rio, esta y a inhabitable. Manuel Perez, un quarto de piedra sito en la misma calle en 11¼ v'rs de f'te. Tomas Arocha una casa de piedra sita en la calle de las flores compuesta de sala y quarto con 15½ var's de frente y 50 de fondo cuia mitad corresponde a D'n Jose Anton'o Romero, por ser erencia paterna de este y solo corresponde al Rey la otra mitad.

539 La casa que por erencia corresponde a los Arochas fabricada de piedra compuesta de saguan, sala recamara y un quarto con 40 v's de frente y 66 de fondo. Antonio Baca: dos solares junto al puente compuestos de un pedazo de tierra sin fabrica con 32 vr's de frente y fondo h'ta el rio lo dejo la creciente sin admitir cultivo. Yd. 35 vr's de frente y fondo hasta el mismo rio ha que dado en igual estado. Yd. 51 v's de fet'e y fondo hasta el Rio quedó en el mismo estado. Yd. 46 v's de fr'te y fondo hasta el rio. Yd., yd. 84 v's de fe'te y 54 de fondo yd. en igual situacion. Manuel Delgado un solar sito en la calle de Laredo con 40 vr's de fe'te y 50 de fondo. Yd. una casa de piedra sita en la misma calle con 17 var's de fr'te y 50 de fondo la ocupa su Dueño. Juan Galvan por orñ del S'r Com'o G'ral por ser la mitad del Rey y la otra mitad de el. Gabriel de la O. un so lar en el alamo de 80 (var's de fe'te) digo en quadro ista sen cultivo. Fran'co Martines un terreno con 16 vr's de frente y 60 de fondo sin cultivo. Antonio Carmona un sitio en el alamo con 25 var's de frente y 30 de fondo esta sin cultivo. Vicente Tarin un sitio en el alamo con 5 vr's de fr'te y 25 de fondo esta sin cultivo. Rechard Frances, un sitio de tierra en los quarteles, con 20 va's de frente y fondo hasta el rio está sin cultivo.

Bernardo Benites un solar en el Laredo esta sin arriendo Luciano Menchaca un sitio con 35 var's de frente y 50 de fondo está sin arriendo. Pedro Acosta un solarcito en el Laredo con 42

540 vr's de fr'te y fondo hasta el Arroyo lo tiene sin renta a espia de la capital por orñ del Sor G'ral. Fran'co Arocha un solar en el paso de los apaches, esta valdio por su mala situacion yd. una

suerte de tierra en la labor alta sur arriendo. Antonio Baca una suerte de tierra en la labor de valero con dos y media deos de agua. Jose Delgado 5 oras de agua con su correspond'te tierra. Lorenzo Ramos media dula de agua con su tierra. Domingo Acosta, media dula de agua yd. Fran'co Borrego, media dula yd. yd. Fran'co Carmona, media dula yd. yd. Miguel Losoya, media dula yd. yd. Juan Martinez, media dula yd. yd. Pedro Longueville, seis oras de agua con su tierra. Jose Cuevas media dula de agua yd. Jose Flores Valdez, media dula de agua yd. Marcelo Cervantes 4 oras de agua yd.

Bexar 10 de Sep'e de 1819.

JOSE FLORES.
B. MARTINES.

Relacion que manifiesta los vienes que fueron sequestrados a los reveldes de la capital de Texas, segun el ynventario q'e obra en el archivo de este Govierno con espresion de lo que despues sea debuelto, donado y arruinado y ultimam'te llebado la creciente del rio en la ynundacion del 5 de Julio de este año a saber.

Fran'co Arocha un a casa de piedra a espaldas de la guardia principal compuesta de sala y quarto. A estado ocupada en quartel de la comp'a de Milicias y despues de esta con el parque.

541 Bisiente Travieso una casa de piedra a estado ocupada en quartel de la comp'a de Bexar y aora sedida interinamente por la yntend'a al cavildo y ha padecido mucho ruina p'r la creciente, Manuel Delgado, una casa de piedra está la mitad arruinada por la creciente; Juan Beramendi, yd. sele devolvep, por orñ. del Sor Com'te G'ral Antonio Baca yd. fue cambiada por sup'or orñ. p'r otra que se reunio a la de Govierno. Jose Man'l Delgado, un quarto de piedra se arruino en principios de 818; Jose Delgado, un quarto de piedra fue vendido a D'n Jose Rosi p'r orñ. del S'or Com'te G'ral Clemente Delgado una casa de piedra fue donada a D'n Jose Rosi p'r la misma orñ. Fran'co Rodriguez un quarto de piedra—se arruino a principios de 818. Juan Manuel Enriquez—un quarto de piedra—esta inabitable y la ocupa Carlos Peres des de 1°· de Sep'te de 818; Man'l Peres, un quarto de piedra—lo ocupa Manuel Fuentes soldado de Bexar dede 1°· de Sept. de 818; Ydem Man'l Perez quatro xacales arruinados q'e ya no existen, por haberselos llevado la creciente. Miguel del Rio, un quarto de piedra no existe p'r haberse arruinado p'r la creciente. D'n Erasmo Sequin, una casa de piedra, se le devolvio p'r orden de la yntendencia, y antes nada ha rentado p'r haber estado pedida a la Escuela Publica de orñ. superior. Tomas Arocha, una casa de piedra, ha estado sin esquilmo y haora la ocupa la abilitacion de Bexar; La de los Arochas, una casa de piedra a estado ocupada con los ayudantes ynspec-

542 tores: D'n Man'l Pardo y D'n Antonio Puertas. Lorenzo Ramos, un xacal, que estubo inabitable y ya no existe por haberselo llevado la creciente. Jose Antonio Villegas, yden—no existe por haberselo, llevado la creciente. Domingo Acosta, un xacal, yd., yd.; Claudio Ramires, yd., yd.; Fran'co Borrego, un yd., lo ocupo des de 1°· de Sep'te de 818 el sold'o de Bexar. Flugencio Bustillo,

y ya no existe p'r haberselo llevado la creciente. Antonio Baca dos solares estuvieron ocupados des de 1°. de Sep'te de 816 h'ta la creciente que los aruinó y rentaron los dos c'p's cada año; yd., 35 var's de tierra rentaron lo mismo des de 1°. de Julio de 817 hasta la creciente que los dejo arruinados; yd., 51 var's sin haber habido arrendatario; yd., 35, yd., con tres xacales arruinados hace tiempo; yd., 46, id., con dos id., sin arendatario se los llev'o el rio; yd., 84, id. con 2 id. sin id., yd.; Jose Antonio Curbelo, un xacal lo ocupa des de 1°. de Sep'te de 818 h'ta la creciente, el soldado de Bexar Fran'co Rodriguez, y ya no existe por haberselo llevado el rio; el Frances Gualeto, una casa de madera fue vendida a D'n Man'l Lopez por orñ. del S'r Comand'te G'ral Jose Sanches, un xacal, fue vendido en 15 p's a D'n Antonia Hernandez en Febrero de 817 p'r orñ. del gov'or interino D'n Ygnacio Perez. Gertrudis Montes, un xacal, arruinado y la tierra valdia Manuel Delgado, un solar sin arrendatario; yd., una casa de piedra, la ocupa su dueño Juan Galvan sin venta a por orñ. del S'r Command'te G'ral Antonio Castro,
543 un xacal, fue vendido p'r el Ten'le de Bexar D'n Jose Sandoval en dies fanegas de mais se haya ansente y debe responder de el; Luis Gallardo, un xacal, fue vendido por la Junta de embargo. Fran'co Carmona, un chamaquero, fue vendido a Jose Pine da por orñ. de S'or Comand'te G'ral Joaq'n del Toro, un xacal, vendido par la misma junta. Gabriel de la O., un solar, no hay quien lo ocupe.

Franc'o Martinez, un jocal, id., id., id.

Franc'o Travieso, dos solares vendidos por la junta de embargos. Antonio Carmona, un xacal, existe la tierra sin arrenda'to, Bisente Tarin un xacal, no existe y si la tierra valdia. Nepomuceno San Miguel un solar, lo vendio la junta de embargo. Antonio Martinez, un xacal, yd. Yd., un solar vendido p'r la misma, id., id. Cayatano Dominguez, una suerte de tierra—vendida a D'n Vicente Micheli por el comisiondo de embargo. Rechard Frances, una casa de madera, se arruino y el solar solar lo ha tenido el herrero Juan Leal que murio sin tener con que pagar. Bernardino Venites un solar. Existe sin arrendatario, Luciano Menchaca, un xacal. Se arruino y la tierra esta sin cultivo. Pedro Acosta, un xacal, sedido hasta que se venda sin renta al espia de esta capital por orden de los Governadores Anteriores. Fran'co Arocha un solar, no hay quien lo ocupe por la mala situa'on. Yd., una suerte de tierra. Se haya en el mismo caso. Manuel Delgado, 4 suertes, vendidas al Padre Zambrano en t'po del S'r G'ral. Antonio Baca cinco
544 suertes, dadas las quatro p'r el S'or G'ral a D'n Jose Granados, y existe una rentando, dos panagas de mais. Jose Leal, un solar, se ledio a su madre de orñ. del S'or G'ral. Antonio Baca, una esclava, fue vendida de orñ. del mismo. S'r G'ral a su misma ama. Jose Delg'o, 5 oras de agua con tierra. Existe sín arrendatario. Lorenzo Ramos media dula de agua, con tierra arrendada en 1 f'a de mais. Domingo Acosta, media dula de id. arrendada en id. Fran'co Borrego, yd., yd., yd. Fran'co Carmona, yd., yd. Miguel Losoya, yd., yd. Joaq'n Leal, dos dulos con tierra, vendidos al Padre Zambrado de orñ. del S'or G'ral. Juan Martines, media dula,

arrendada en una fanega de mais. El Frances Labome, quatro esclavas, no existen desde que estubo aqui el S'or G'ral. Pedro Longueville, 6 oras de agua arrendadas en media fanega de mais. Juan Cortes media dula, se devolveo p'r mal embargado. Antonio Martines media, yd., se vendio al Baron de Bastrop por el encargado de embargo. Jose Cuevas, yd., media dula arrendado en una fanega de mais. Jose Flores Valdez, yd., arrendada en una fanega y el rincon vendido a D. Erasmo Seguin p'r el encargado de embargo. Marcelo Cervantes, quatro oras de agua sin arriendo; Juan Diego Belos, un telar viego, se lo llevo las creciente. Yd., 118 cabesas de Ganado Menor se las comeo las Tropas, del S'or Comd'te G'ral, 4,567 de Granado Mayor consumidas p'r el exercito del mismo S'or G'ral 916 fanegas de mais consumidas por el mismo.

545 Bexar, 10 de Sep'e de 1819.

B. MARTINEZ.
JOSE FLORES.

Noticia de los intereses que en documentos paran el poder del comisionado en los vienes sequestrados a los reveldes de esta Cap'l.

	Pesos. R's.
1 recibo contra los soldad's de la Comp'a de Bexas, Fran'co Rodriguez y Jose Pineda de renta de una casa que habitaron	12.
1 Yd. contra Carlos Peres de la misma Comp'a	6.
1 Yd. contra Deonicio Sanches de d'ha Camp'a	6.
1 Yd. contra Jose Tobar de la Comp'a de Rio G'd	30.
1 Yd. contra el teniente Jose Sandoval	49.4
1 Yd. contra la Comp'a de Bexar de mais, entregado de los arrendamientos de las tierras	36.
Suma	139.4

Bexar, 10 de Sep'e de 1819.

B. MARTINES.
JOSE FLORES.

Con el motivo de que de resultos de la creciente del dia 5 del ultimo Julio fueron arruinadas varias casas y todos los jocales que se hallaban sequestrados y dependen de la Real Hacienda, he pedido al encargado de d'hos vienes forme relaciones q'e acompañe a vs. para su debido conocimiento manisfestandose en la una todo do que fue sequestrado, y autes di conocim'to a vs. con expresion del resultado que ha tenido cada finca y la otra se dija ver lo que unicam'le ha que dado existente en el dia, con la advertencia que por lo correspondiente a las tierras de labor han quedado todas las mas suertes extruidas por la misma creciente por que habiendo dado
546 la casualidad de estar de las mas proximas a las margenes del rio, no prestan y a cultivo alguno. Asimismi acompaño a vs. quenta que tambien exigido al mismo comisionado en poder del que no existe real alguno, y si recibos que si unos son cobrables por

pertenecer á la tropa á quien podra cargarseles en sus quentas, otros es dificultoso su cobro por ser contra varios a quienes esta des gracia los ha dejado sumergidos en la maior indigencia estando solo atenidos aora a ser socoridos por medio de la caridad del Ex'mo S'r Virey que al efecto ha librado 29 p's y el Ylt'm Prelado D. Jose Yg'no de Aransivia 19 pesos, pero de todo vs. deliverará lo que entendiere mas de Justicia Dios que a vs. m's a's Bexar de Sep're de 1819.

S'or Yntend'te D. Manuel de Acevido.

ANTONIO MARTINES.

LUIS POTOSI, *Oct'e* 20 *de* 1819.

Unase este oficio y documen'tos q'e se acompañan a los antec'd'tes q'e existen en esta yntenda pasen al Promotor Fiscal y con lo q'e pidiere al asesor asi su sria lo decreto y firmó doy doy fé.

ACEVEDO.

ANTONIO MARIA LUARES.

[Carolus IV., D. C., Hispaniarum Rix. Un quartillo.] [Fernando VII., D. C. M., Anos D. 1810, 1811. S. A.] [Fernando VII, D. C. M, Anos D. 1818, 1819. Un quartillo.] Un quartillo. Sello quarto. Un quartillo.

Años de mil ochocientos seis y ochocientos y siete. Espediente sobre la venta de los vienes embargados a los Reveldes por cuenta de la R'l Hacienda. Año de 1819.

Deviendo venderse a beneficio de la R'l Hacienda las fincas embargadas en esta Capital a los reveldes a fin de qüe d'ha R'l Hacienda no pierda estos intereses por el grande des merito que d'has
547 fincas han sufrido y sufren y in virtud de las ordenes con que en el particular me hallo. Comiciono a v. para que en Junta de los vecinos D. Vicente Gortari primir Rejidor y de Jose Flores encargado de estos vienes, practique la enunciada venta con arreglo, al parecer del Señor Acesor de la Yntend'a de S'n Luis Potosi de que acompaño a v. copia a fin de que en todas sus partes se arregle a el, y sirva de cabeza del expediente que al efecto debe formar. Ygualmente acompaño a v. relacion de las casas y terrenos que deben venderse segun el ultimo avaluo que se ha hecho por los peritos Jose Donaciano Ruiz y Franc'o Zapata Maestros alvaniles por lo correspondiente alos casas, y de las tierras los Labradores D. Franc'o Flores, D. Santiago Seguin, Diego Peres y Jose Gomez, cuyos yndividuos fueron juramentados por mi para practicar d'ho justiprecio y del resultado de todo me dará v. parte con el indicado expediente.

Dios g'ñe a v. m's a's Bexar 6 de Nov'e de 1819.

S'r Cap'n D. Man'l Cedron.

ANTONIO MARTINES.

POTOSI, 20 *de Octubre de* 1817.

Agreguese el ficio del S'or Gov'or de la Prov'a de Texas, ymbentario y relaciones que a el acompaña sobre casas embargados a los Reveldes en Bexar, consultando si podran venderse algunos de ellos, y pase todo a consulta del acesor para providencias que convengan.

El S'or Yntend'te Corregidor de esta Prov'a D. Man'l Jacinto de Acevedo así lo decreto, mando, y firmó con testigos de ass'a a falta de escribano de que doy fée.

MANUEL DE ACEVEDO.

De ass'ta:
JUAN JOSE DOMINGUEZ.
JOSE M'A LOMA.

548 *S'or Yntendente.*

El articulo 82 de la R'l Ordenanza de 4 de Disre de 1786 da facultad para el caso de que en el Territorio de esta Prov'a llegasen a confiscarse por sentencia qualesquiera bienes y para que sea el privativo cargo de vs. proceder a la enagenacion y cobro de su importé sobre el conocim'to de todos los pleitos e instancias que despues se sucitaren; y sobre este mismo asunto se ha expedido posteriormente, orñ. superior refiriendose a los vienes que se confiscaren a los reveldes. En tal supuesto y en el de que el S'or Gov'or de la Prov'a de Texas se refiere en el principio de la relacion de 19 de Sep're de este año a que la confiscacion de los vienes contenidos en ella se ha hecho de orñ. del S'or Comd'te G'ral de la Provincia de Oriente, y a es el caso sobre que dispone el sitado articulo; y en su consequencia se ha de servir vs. mandar que las fincas confiscadas por el deterioro a que se asienta que han tenido sebuelvan a abaluar por dos peritos juramentados castigando asi los precios que anteriormente se les dieron para facilitar sumas fonda venta y que no sea consiguiente su total ruina en perjuicio de la r'l hacienda, y asi abaluadas estas fincas salgan desde luego al pregon por el termino de nueve dias celebrandose despues tres almonedas en la ciudad de S'n Anton'o de Bexar y en la ultima el remate en el mejor postor ó postores parciales que se presenten con los correspondientes papeles de abono de sugetos que puedan causionar sus posturas y
549 estas seran buenas y se podran aceptar para hacerse el remate en ellas cuando no se presenten otras si excedieren en poco mas de las dos terceras partes del abaluo, por ser esta la practica observado comunmente en todos los tribunales; y de esta determinacion se sirvira vs. dar aviso al S'or Comd'te G'ral remitiendose despues este expediente para los indicados efectos al expresado S'or Gov'or de Bexar quien dará quenta de las resultas a esta yntend'a en su devido tiempo, S'n Luis Potosi, Octubre 29 de 1817. Lic'do Jose Ruiz de Aguirre, S'n Luis Potosi, Oct. 31 de 1817. Como consulta el acesor, lo que se comunique al S'or Com'te G'ral de las Provin's de Or'te para su yntelig'a. Asi su s'ra lo decreto y firmo de que doy fee—Acevedo—de ass'to Juan Jose Dominguez—Jose M'a Soma. D'n Antonio Martines Cavallero de la r'l orñ. de S. Hermenegildo, Cor'l de los R's Ex'tos y Gov'or Politico y Militar por S. M. de esta Prov'a de los Texas, nueva filipinas, &c. Certifico que el dictamen que antecede es copia literal del que aparece en el expediente remitido de la yntend'a de S'n Luis Potosi y obra en el archivo de este Gov'no de mi cargo, y para que conste lo firmo en Bexar a 6 de Nov. de 1819. Ant'o Martinez relacion de los vienes embargados a los reveldas, que deben ponerse a publica sub asta

con noticia del valor de cada fica segun el ultimo abaluo. Una casa de piedra de Fran'co Arocha situa espaldas de lagña princip'l compuesta de sala y quarto con 22 vs. defrente y 86 de fondo,
550 600. Otra, yd., de Vicente Travieso sita en la plaza compuesta de saguan sala, dos Recamaras y tienda y Trastienda, 4,500.

Otra id. de Manuel Delgado, en la calle de la orilla del rio que sale a Palacio compuesta de Saguan sala recamara y quarto con 39 vs. de frente y 16 de fondo, 500 p's. El terreno de un quarto de Jose Manuel Delgado con fondo al rio 17 p's. El terreno de un quarto de Franc'o Rodriguez 14 p's. Un quarto de Piedra de Juan Manuel Erriquez calle de los Curvelos con 6 vs. de frente y fondo hasta el rio 50 [p's.] Manuel Peres dos jocales arruinados 39 p's. Del mismo un quarto contiguo a los jocales 130 p's. Miguel del Rio un quarto en la Plaza de Armas arruinado 50 p's. Tomas Arocho una casa de Piedra calle de las Flores compuesta de sala y quarto de 15½ vs. de frente y 50 de fondo cuia mitad corresponde a Jose Antonio Romero por ser erencia paterna 300 p's. La casa de los Arochas compuesta de sala recamara y un quarto con 40 vs. de frente y 66 de fondo 1,500 p's. Una casa de Manuel Delgado calle de la labor de ariba con 17 vs. de frente y 50 de fondo cuia mitad corresponde a Juan Galvan 150 p's. Lorenzo Ramos la tierra de un jocal sin abaluo por no servir 0. Gertrudis Montes la tierra de un jocal con 26½ vs. de f'te y 30 de fondo 20 p's. Un solar de Manuel Delgado calle de la labor de ariba con 40 vs. de frente y 50 de fondo 40 p's. Grabiel de la O. un solar en el alamo con 80 vs. en quadro 12 p's. Franc'o Martines otro id con 16 vs. de frente y 60 de fondo 60 p's. Antonio Carmona otra yd. 25 vs. de frente y 50 de fondo 18 p's. Rechar Frances el terreno de una casa en el alamo con 20 vs.
551 de f'te y fondo hasta rio 20 p's. Bernardo Benites un solar en Laredo 20 p's. Luciano Menchaca el sitio de un jocal con 35 vs. de frente y 50 de fondo 26 p's. Pedro Acosta un solar en Laredo con 42 vs. de frente y fondo hasta el arroyo 42 p's. Franc'o Arocha un solar en el Paso de los Apaches 25 p's. Suertes: Franc'o Arocha una suerte con 24 oras de agua 50. Antonio Baca otra id. con media dula de agua 50. Jose Delgado otra id. con 5 oras de agua 25. Lorenzo Ramos otra id. con media dula 50. Domingo Acosta otra id. 50. Franc'o Borrego otra id. 50. Franc'o Carmona, otra id. 50. Miguel Losoya otra id. 50. Juan Martines otra id. 50. Pedro Longaville seis oras de agua 20. Juan Cortes una suerte 40. Jose Cuevas otra id. 40. Jose Flores Valdez 21 ora de agua 80. Marcelo Cervantes 4 oras de agua 10. Antonio Baca una suerte 40. Una id. del mismo 50. Otra id. del mismo, 40.

Bexar, 6 de Nov're de 1819.

ANTONIO MARTINES.

Consequente a la orño de vs. proceder a la renta y remate de los vienes embargados a los reveldes de esta Provincia se han puesto en pregon p'r el termino de nueve dias despues de los cuales se verificaron las tres almonedas que previene la orño del S'or Yntend'te de San Luis Potosi rematandose en la ultima las fincas y terrenos

segun se manifiesta en el Docum'te q'e con los demas q'e vs. ha pasado a esta junta le devolvemos p'a su cono cim'to en el supuesto de que los compradores han quedado entendidos de que deben aprontar las cantidades en que verificaron sus remates quedando vs. selo ordene y tenga por conben'te sin q'e para. los demas vienes que
552 no se han rematado se hubiesen presentado ningunas posturas. Dios g'ñe a vs. m's. a's.

Bexar, 22 de Nov. de 1819.

MANUEL CEDRON.
VICENTE GORTARI.
JOSE FLORES.

S. Governador Cor'l D'n Antonio Martines en la Ciudad de S'n Fernando de Bexar a los veinte y dos dias del mes de Noviembre, año de mil ochocientos dies y nueve, los comisiona dos de la junta que p'a la venta de los vienes embargados a los rebeldes de de esta provincia se formo de orñ del Governador de ella Corn'l D'n Antonio Martines, y lo son el Capitan D'n Manuel Cedron, D'n Vicente Gortari, primer Rigidor del Ayuntamiento de esta capital, y el vecino D'n Josef. Flores de Abrego, en virtud de la orden del espresado s'or Governador, que abra a la cabeza de este espediente consequente a la que esta gefe tubo de la yntendencia de S'n Luis Potosi, tambien yncerta a continua'n para proceder a la venta de los yndicados vienes embargados segun se manifiesta en la rela'n que acompaña d'ho s'or Govenador en su oficio orden y a citado, todo ello en beneficio de la R'l hacienda; certificamos y en quanto podemos damos fe que despues de pregonados por el termino de nueve dias y puestos en publica subasta los referidos vienes embargados por el orden de la relacion y a citada, se selebraron en su consequencia los tres almonedas con areglo a la orñ del sor yntendente de S'n Luis Potosi, rematandose en la ultima, que lo fue el veinte y uno del corriente; la casa de los Arochas en la cantidad de dos mil
553 veinte, y conco p's a fabor del comerciante D'n Manuel Yturri; el terreno de un quarto de Josef Man'l Delgado, en fabor de D'n Domingo Bustillo en la de trece pesos. Otro yd'm de Francisco Rodrigues, en el mismo D'n Domingo Bustillo, en la de dies pesos, la casa de Manuel Delgado, a fabor del Capitan de Milicias Feniente, Coronel D'n Ygnacio Perez, en la de quinieutos pesos. Asimismo se remato la suerte de Fran'co Borrego, a favor de Deonicio Martinez, en la cantidad de cincuenta pesos, la de Miguel Losoya, igualmente, a favor del Capitan D'n Francisco Garcia; en cincuenta y cinco p's otra idem de Domingo Acosta, a fabor de D'n Gregorio Arciniega; en cincuenta p's otra id-m de Lorenzo Ramos, a fabor de Josef Laforé; en cincu-nta p's otra id-*n* de Longueville, a favor del mismo Pedro Longueville; en cincuenta y dos p's otra yd'*n* de Juan Martines, a favor de D'n J'ph Antonio de la Garza; en cincuenta y cinco p's otra yd'm de Fran'co Arocha, a fabor de Ermenegildo Seguin y el soldado de la compaña de milicia, J'ph Maria Ramires; en noventa y cinco pesos otra yd'm de Josef Flores Valdes, a fabor del S'r Cura Ynterino D'n Dario Sambrano; en sesenta p's yd'm la de J'ph Cuevas, a favor de D'n Joseph Antonio de la Garza; en

veinte y ocho pesos ygualmente se remato el solar de Antonio Ramires, a favor de D'n Gregorio Arciniega en la cantidad de setenta y cuatro pesos yd'm el de Luciano Menchaca, a favor de D'n J'ph Maria Escalera; en dies y ocho pesos yd'm de Pedro Acosta, a fabor de Victoriano Losoya, en treinta pesos. En cinos yndividuos se verifico el remate como unicos que respectivam'te llegaron sus posturas en los terminos espresados, sin que hara habido persona alguna que los aventajare en ellos, ni menos se han presentado compradores p'a los demas vienes contenidos en la espresada relacion del S'r Governador y para que conste adonde convenga damos la presente que firmamos en dicho dia mes y amo.

MAN'L CEDRON.
VICENTE GORTARI.
JOSE FLORES.

Comp'a Presd'l de Bexar. Recibi de la junta comicionada por el S'or Gov'or de la Prov'a Cor'l D. Antonio Martines la cantidad de tres mil ciento cinquenta y cinco pesos importe de las fincas vendidas de los Reveldes a favor de la R'l Hacienda los que seran de cargo en esta comp'a de que soy habilitado y se han percibedo para sos tener los tropas de la indicada Prov'a Bexar, Nov're 27, de 1819. Son, 3,155, p's.

ALEJANDRO TREVIÑO.

B'o Martinez:

Potosi, En'o 20 de 820. Al promotor Fiscal en cuyo estudio estan los anteced'tes. Lic'do Ruis de Aguierre Devuelvo este espediente despues de haver hecho lo proprio con sus antecedentes sin el pedemento q'e corresponde p'a q'e el Jues de letras del respetivo partido providencie lo que hallare de Justicia. San Luis Potosi Abril 16, de 1821—Lec'do Marquez. Habiendose puesto en venta las fincas sequestradas a los reveldes en esta Capital, en virtud de lo q'e vs. me tiene prevenido sobre el particular, acompano el espediente que se ha formado relativo a d'ha venta, e igualmente es adjunto recibo de la cantidad de tres mil ciento cincuenta y cinco pesos que ha importado los vienes vendidos cuya cantidad a apercibido el abilitado de esta compania Pren'e para socorrer las tropas de esta Provincia que se hallaban sin socorro alguno, por cuya razon espero si vs. lo tuliere a bien disponga que por la R'l caxa del Saltillo se haga el correspond'te cargo de la indicada Comp'a de Bexar. Los demas vienes que anu restan por no haber habido postores tanto por el despreciable estado de ellos quanto p'r q'e las escases de estos habitantes no les dan lugar a hacer compra de ellos, creo no faltaria quien los comprase si se les dise al fiado, de cuyo particular no he querido determinar, pues, anuque no falto sujeto honrado q'e corresponder al credito q'e contraxesen la insertidumbre de sus cosechas en sus reducidas siembras tal vez no les darian lugar a corresponder como quisieran, pero vs. determinara en el particular lo que tenga por conviniente; y por lo que corresponde a la casa embargada al revelde vicente Travieso (que actualmente esta cedida interinamente por disposision de vs. al ayuntam'to de esta ciudad) nunca tendra postor en vista de que la inundacion la dejo enter-

am'te destrosada y de su desbaratado abaluo de cuatro mil quinientos pesos cantidad q'e no es posible renuir la entre todo el vecindario. Dios g'ñe vs. m's a's Bexar 10 de Diciembre de 1819. Antonio Martinez S'or Yntendente D'n Manuel de Acebedo.

STATE OF TEXAS, *Bexar County:*

556 I, Thad. W. Smith, clerk of the county court in and for said county and State, do hereby certify that the foregoing and annexed 27½ pages in the Spanish language *is* a true and correct copy from the original Spanish archives and records in my office, of which I am the lawful possessor.

Witness my hand and official seal at office, in San Antonio, this 4th day of March, A. D. 1884.

THAD. W. SMITH,
County Clerk Bexar County, Texas.

Endorsed: No. 53. Sabaniego *et al. vs.* Maverick. Filed Mc'h 13, '84. W. C. Robards, cl'k.

Balga por el Reynado del S'or D'n Fernando 7°. Sello 4°. año de 1819. Martinez.

Pago el ynterresado en esta adm'n de mi cargo el medio rel imp'to de este sello.

Bexar, 23 de Nov. de 1819.

LUIS GALAN. (Rubrica.)

En la Cuidad de S'n Fernando de Bexar a los veinte y tres dias del mes de Noviembre año de mil ocho cientos dies y nuebe. Los comisionados de la junta que para la venta de los veines embargados a los rebeldes de esta provincia se formo de orden del S'r Governad'r de ella coron'l D'n Antonio Martines y lo son el Capitan D. Manuel Cedron, D'n Vicente Gortari primer Reg'd'r del ayuntam'te de esta capital, y el vecino D'n Jose Flores de Abrego, en virtud de la orñ. del espresado S'or Governador, consequente a la que este gefe tubo de la Yntendencia de San Luis Potosi para pro-
557 ceder a la venta y remate de dichos vienes embargados, a beneficio de la R'l Hacienda. Certificamos y en quanto podemos damos fé, que despues de puestas a publica subasta segun los tramiles acostumbrados los enunciados vienes, fue remalada la suerte de Miguel Losoya a fabor del Capitan D'n Francisco Garcia en la cantidad de cinquenta y cinco pesos, lindando por el Norte con tierra de la vinda de vicente Amador; por el sur con la de Cipriano Losoya; por el Oriente con la muralla de la Mision de Balero, y por el pouiente con tierra de D'n Francisco Collantes y Manuel Ximenes, cuia finca ha sido entregada por la refereda junta al Capit'n D'n Francisco Garcia en la indicada cantidad de cinquenta y cinco pesos que ha satisfecho en moneda corriente a beneficio de la R'l Hacienda, y por ello la poserá de aqui enadelante como su legitimo dueño y posedor, quedando en la libertad de bolbala a bender, donarla, ó cederla en herencia a quien fuere su voluntad, sui que se fe pueda ofrecer contradicion respecto a la libertad en que queda de su uso; y para que asi conste y pueda servir le de titulo y resguardo que

dando este testimonio de venta en el archivo del govierno y puedan darsele a la parte los tantos que de el pidiere. firmamos esta en la referida cuidad de Bejar en el espresado dia mes y año.

MANUEL CEDRON. (Rubrica.)
VICENTE GORTARI. (Rubrica.)
JOSE FLORES. (Rubrica.)

558 Apruebo esta venta.

MARTINES. (Rubrica.)

STATE OF TEXAS, *Bexar County:*

I, Thad. W. Smith, clerk of the county court in and for said county, do hereby certify that the foregoing and annexed 2½ pages in the Spanish language is a true and correct copy from the original Spanish archives and records in my office, of which I am the lawfull possessor.

Witness my hand and official seal, at office in San Antonio, this 4th day of March, A. D. 1884.

THAD. W. SMITH,
County Clerk, Bexar County, Texas.

Endorsed: No. 53. Copy of deed from the confiscating commission to Capt. Franc'sc. Garcia. Filed M'ch 13, 1884. W. C. Robards, cl'k.

559 *Disclaimer of Mrs. E. A. M. Houston. Filed Oct.* 8, 1881.

In U. S. Circuit Court at San Antonio for Western District of Texas. October Term, 1881.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.* } No. 53.

Now, at this term of the court, comes E. A. M. Houston, cited as one of the defendants in this suit, and, in answer to said citation, says:

That she is not in anywise interested in the title to any of the property in controversy herein.

That she is informed and believes that she has been sued by reason of her occupancy of a certain portion of said property as the tenant of P. H. Ward, of San Antonio, Texas; who placed her in peaceable possession of the same.

That she does not own or claim any right or title in the premises, but here disclaims all title to the same.

That she does not know who the owners of said property is, and she does not defend or prosecute the claims of any one thereto.

Wherefore, premises considered, she prays that she may be dismissed hence with her costs.

A. W. HOUSTON,
Att'y for Mrs. E. A. M. Houston.

560 Endorsed: Pilar G. de Sabariego *et als. vs.* Mary A. Maverick *et als.* Disclaimer of Mrs. E. A. M. Houston. Filed Oct. 8, 1881. W. C. Robards, clerk.

561 *Disclaimer of J. R. Smith. Filed Sept.* 28, 1881.

HEADQUARTERS DEPARTMENT OF TEXAS,
MEDICAL DIRECTOR'S OFFICE,
SAN ANTONIO, *Sept.* 27, 1881.

W. C. Robards, clerk U. S. C. C.

SIR: I have the honor to acknowledge a citation to appear before the U. S. circuit court to answer the petition, &c., of Señor Sabariego.

I respectfully inform you I have no interest whatever in any of the land, rents, issues, or profits claimed by the plaintiff; that he may have them all as far as I am concerned, and that I positively decline and refuse to oppose him in the matter.

Very respectfully,

JOS. R. SMITH,
Surgeon U. S. A.

Endorsed: Pilar Garcia de Sabariego *vs.* Mary A. Maverick *et al.* Disclaimer. Filed Sept. 28th, 1881. W. C. Robards, clerk.

562 *Disclaimer of C. Opson, Executor [of the] Est. of James Vance, Dec. Filed Nov. 3d,* 1881.

In the Circuit Court of the United States for the Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.*
} No. 53.

Now comes C. Opson, executor of the estate of James Vance, deceased, and says that neither he nor the estate of the said James Vance, deceased, claims to have any title to or interest in the property sued for in the above-entitled cause, and he does hereby for himself and for the said estate disavow and disclaim any title to or interest in the said property, as in plaintiffs' petition described.

Wherefore he prays that he may be hence dismissed with his costs, &c.

WAELDER & OPSON,
Att'ys for C. Opson, Executor of the Estate of James Vance, Deceased.

Endorsed: No. 53. Pilar Garcia Sabariego *et al. vs.* Mary A. Maverick *et al.* Disclaimer of C. Opson, executor of [the] estate of James Vance, deceased. Filed Nov. 3, 1881. W. C. Robards, clerk, per E. S. Niccolls, dep.

563 *Pl'fs' Abstract of Title. Filed March 4th, 1884.*

In the Circuit Court of the United States for the Fifth Circuit and Western District of Texas, at San Antonio.

PILAR GARCIA DE SABARIEGO *et al.*
vs.
MARY A. MAVERICK *et al.*
No. 53.

Trespass to try title.

Plaintiffs file in response to demand and notice the following abstract of title:

(1.) Plaintiffs claim under the partition of lands of San Antonio Valero to the inhabitants of the presidio Adaes, under which Miguel Losoya, through whom plaintiffs claim, obtained a "suerte" of land, the premises in controversey. Said partition proceedings begin November 20th, 1792, and end December 7th, 1793.

(2d.) Proceedings for the confiscation and sale of said "suerte" of land, resulting in the purchase thereof by Francisco Garcia. These proceedings begin September 14th, 1817, and end with conveyance to said Garcia November 23d, 1819.

Both of the proceedings above mentioned, including said conveyance, said conveyance of November 23d, 1819, being signed by Manuel Cedron, José Flores, and Vicente Gotarri, the commis-
564 sioners of the board organized for the sale of property confiscated from the rebels of the province of Texas, and approved by Governor Martinez, and of record in the Spanish records in the office of the clerk of the county court of Bexar county, Texas, in volume 3, pages 156 and 157, are among the Spanish archives in the office of the clerk of Bexar county, Texas, certified copies of which, in Spanish and translations thereof, are herewith submitted as a part hereof for the inspection of defendants, and will be offered in evidence by plaintiffs on the trial of above cause.

BERRY & ROSENHEIMER,
HANCOCK & SHELLEY,
A. J. PEELER,
MASON & PASCHAL,
Attorneys for Plaintiffs.

Endorsed: No. 53. Sabariego *et al. vs.* Maverick *et al.* Plaintiffs' abstract of title. Filed March 4, 1884. W. C. Robards, clerk, by N. H. Kirkland, dep.

565 *Clerk's Certificate.*

I, W. C. Robards, clerk of the circuit court of the United States for the western district of Texas, do hereby certify that in accordance with a writ of certiorari issued out of the honorable the Supreme Court of the United States I have made careful search of the records of the said circuit court in the case of Pilar Garcia de Sabariego *et als. vs.* Mary A. Maverick *et als.*, No. 53 on the docket of

the said court, and prepared a transcript of the following-named papers, to wit:

1st. The Spanish copy of the partition of lands of the Mission of San Antonio de Valero.

2nd. The Spanish copy of the so-called proceedings for the confiscation of the lands in controversy in said case.

3rd. A copy of the original Spanish deed of conveyance, purporting to convey to one Francisco Garcia the lands in controversy in this case.

4th. The disclaimers, respectively, of Mrs. E. A. M. Houston, Dr. J. R. Smith, and C. Upson, executor of the estate of James Vance, deceased.

5th. The abstract of the claim or title of plaintiffs to the
566 land in controversy, filed by said plaintiffs among the papers of the cause in said circuit court on the 4th day of March, A. D. 1884, and demanded of the defendants in accordance with the laws of Texas.

And I do further certify that said transcript is embraced in the foregoing sixty-eight (68) pages of manuscript, which contain a full, true, and correct copy of the original documents hereinbefore enumerated, the same being now on file in my office.

In testimony whereof I hereunto set my hand and affix the seal of the said circuit court, at office, in San Antonio, this 15th day of May, A. D. 1885.

[The Seal of the U. S. Circuit Court, Western Dist., Texas, San Antonio.]

W. C. ROBARDS,
Clerk U. S. Circuit Court.

567 [Endorsed:] Supreme Court U. S., 1885. October term. No 345. Pilar Garcia de Sabariego *et al.*, pl'ffs in error, *vs.* Mary A. Maverick *et al.* Certiorari & return.

[Stamped:] Office Supreme Court U. S. Filed Sep. 4, 1885. James H. McKenney, clerk.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1887.

No. 67.

PILAR GARCIA DE SABARIEGO, AND MANUEL SABARIEGO, HER HUSBAND,

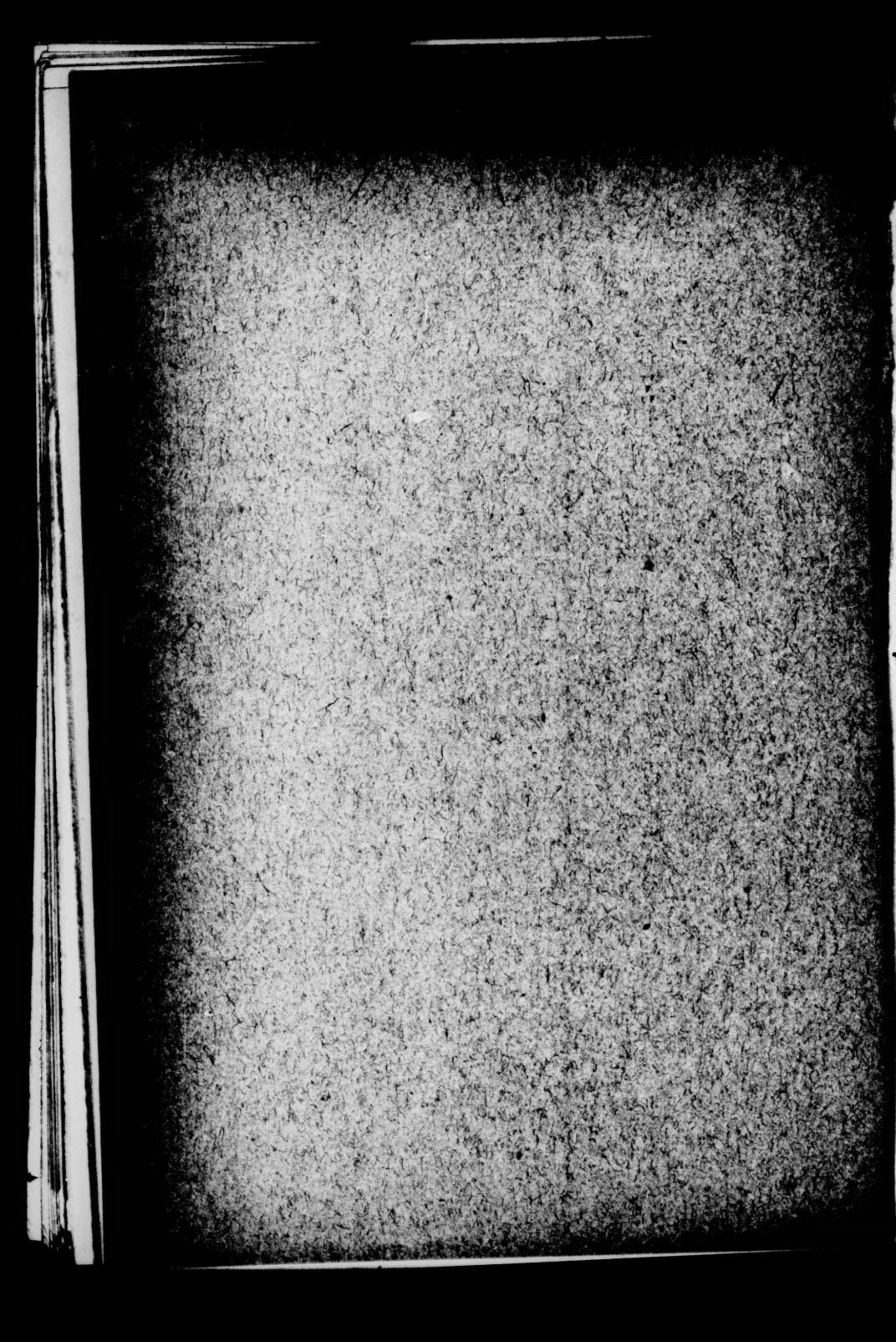
vs.

MARY A. MAVERICK ET AL.

BRIEF OF

W. HALLETT PHILLIPS,
JOHN HANCOCK,
S. R. FISHER,
For Plaintiffs in Error.

JUDD & DETWEILER, PRINTERS.



Supreme Court of the United States.

No. 67.

SABARIEGO *vs.* MAVERICK *et al.*

Brief for Plaintiffs in Error.

This was an action of trespass to try title, brought in the Circuit Court for the Western District of Texas, by Pilar Garcia De Sabariego and her husband Manuel, citizens of Mexico, against Maverick and others, citizens of Texas, to recover a certain tract of land lying in the city of San Antonio, Texas. She claimed the property as the sole heir of her deceased father, Francisco Garcia, and of her deceased mother, Gertrudes Barrera de Garcia, and both of whom died seized and possessed of the said land.

The different defendants filed pleas of not guilty, limitations, estoppel, alienage, and adverse possession. They also asked allowance for their improvements, should judgment go against them and citation of their warrantors. (R., 5–45.)

Plaintiffs excepted to the answers, but their exceptions were not sustained. (R., 169.)

On the trial, as shown by the bill of exceptions, the plaintiffs read in evidence certain partition proceedings showing title in one Miguel Losoya to the suerte or tract claimed in the suit, by a grant from the King of Spain.

They then offered certain confiscation proceedings show-

ing a subsequent confiscation of the said property by the Spanish Government, and a deed from the board of commissioners for the sale of confiscated property to Francisco Garcia.

The documents relating to the confiscation, sale, and conveyance of the property in controversy were admitted in evidence, the court stating at the time that, in the opinion of the court, they did not show any decree or adjudication of confiscation sufficient to warrant the sale, and that unless plaintiffs could show some further proceeding upon which to base the action of the officers in the premises, the said proceedings constituted no legal confiscation, and passed no title to the purchaser at said sale.

Counsel for the plaintiffs then stated to the court that they were unable to offer in evidence any further or other confiscation decree or proceedings than those already offered and read in evidence.

Counsel for plaintiffs also offered in evidence the depositions of various persons, and also offered to prove that the facts stated in their original supplemental petition touching the ages, marriages, relationship, heirship, and disabilities of the persons therein mentioned were true.

Also, that there were held under the same confiscation proceedings as those set out under which plaintiff claims other property and titles in San Antonio, and that neither the Government of Mexico or of the Republic or State of Texas or any person had sought to have the same annulled or set aside or to question the validity of such titles.

They also offered to prove that the premises mentioned in their petitition were the same premises as were partitioned to Miguel Losoya as suerte No. 24, and were the same as were mentioned in the confiscation proceedings and conveyed to Garcia, through whom they claimed.

They further offered to prove that defendants, and each of them, had actual notice of plaintiff's claim to the premises in controversy, before acquiring any title thereto.

But the court, upon the objection of defendants, refused to allow the depositions to be read, and refused to allow the plaintiff to make any of the proofs aforesaid, upon the ground that the said confiscation proceedings were insufficient to pass title of any character, and that this was fatal to plaintiff's right to recover, and that with all the evidence read as well as that proposed to be offered, showed no title in plaintiffs which would warrant a verdict and judgment in their favor.

As directed by the court, the jury found a verdict for the defendants, upon which judgment was entered, and the plaintiffs sued out a writ of error.

Assignment of Error.

The rulings of the court above noted all of which were duly excepted to, are now assigned for error.

The main question in the case is whether the confiscation proceedings and sale thereunder conferred title.

On page 89 of the record, is found the deed of "the commissioners of the board organized for the sale of property confiscated from the rebels of this province." It declares that the sale was made by the order of the Governor of Texas, Colonel Don Antonio Martinez, in consequence of the order received by the said chief from the intendancy of San Luis Potosi, to proceed to the sale and adjudication of said confiscated property for the benefit of the royal treasury; and it certifies "that after said property had been offered at public auction, according to accustomed processes, the 'suerte' of Miguel Losoya was adjudicated in favor of Don Francisco Garcia in the sum of $50, being bounded on the north by the land of the widow of Vicente Amador, on the south by that of Cipriano Losoya, on the east by the wall of the Mission of Balero, and on the west by the land of Don Francisco Calentes and Manuel Hirnines, which tract of land was de-

livered by said board to Captain Don Francisco Garcia in the specified sum of fifty dollars, which he paid in current money for the benefit of the royal treasury; and for due authenticity, and in order that this evidence of sale may avail him as a title and muniment in the archives of the government, and that as many copies of the same may be delivered to the party interested as he may desire, we sign these presents in the city of Bexar on the day and year above stated." (Nov. 23, 1819.) This instrument was duly executed and lodged in the archives. (R., 89.) It, together with the other confiscation documents, is certified to by the official translator of the General Land Office of the State of Texas as a correct translation.

The first document is "List of property seized in 1817," and commences as follows: "The Governor of the State of Texas returns statements of property confiscated from the rebels in Bexar, and of the condition thereof, and asks whether some of it may be sold." This return was made to the Intendent of San Luis Potosi, and the Governor says that he addressed the Intendent, because the business depended on his authority.

To the communication the Governor attached a copy of the "Statement of property confiscated from the rebels of this city by the order of the commanding general, Don Joaquin de Aredondo, as shown by the statement and inventory made by Captain Don Fran'co de Prado y Arce on the 27th of October, 1814." This copy was authenticated by Don Juan Francisco de Collantes, who, as appears from another inventory and from the account of the proceeds of the property (R., pages 67–69), was, on the 19th of September, 1817, the depository (custodian) and administrator of confiscated property.

Then follows a list of the property, together with the valuation of each parcel. On the list is found the land and water rights of Miguel Losoya—appraised at $100.

It is also included in the statement, signed by De Col-

lantes, in the general inventory of property belonging to the king and confiscated from the insurgents of this province, received from his predecessor, Don Juan Antonio Padilla. (R., 68.)

In his accompanying letter, the Governor says, that some of the property mentioned in the inventory had greatly deteriorated in value since the appraisement, and asks whether it may not be sold, and requests instructions.

The return of the property, together with the letter, was addressed to the Intendent of San Luis Potosi, and is followed by the following decree, signed by the Intendent: "Let the official communication of the Governor of the province of Texas and inventory and statements thereto attached, upon houses sequestered from the rebels at Bexar, and asking whether some of them may be sold, be filed, and let the whole be referred to the 'Asesor' for his opinion upon such Instructions as may be proper. The Intendent Corregidor, of this province, Don Manuel Jacinto de Acevedo, has thus decreed, and ordered, and did sign hereto with assisting witnesses in default of a notary; which I certify." (R., 70.)

The opinion of the Asesor is as follows:

"Article 82 of the royal ordinance of December 4, 1786, gives powers in case of confiscation by sentence of any property within the territory of this province, and makes it the special duty of your lordship to proceed to the alienation and collection of the proceeds, and to take cognizance of all litigation and claims subsequently arising; and on the same subject a superior order was subsequently issued referring to property confiscated from the rebels. In these terms and in the case to which the Governor of the province of Texas makes reference in the beginning of his report of the 19th of September of this year, that the confiscation of the property mentioned in it was effected by the order of the commanding general of the eastern provinces, the provisions of said article are applicable, and consequently your lordship should be pleased to order that the confiscated property,

owing to the deterioration it has suffered, be reappraised by two sworn experts, thus altering the value heretofore assessed on it, in order to facilitate its more speedy sale, and that its total loss may not result to the prejudice of the royal treasury, and said property being thus appraised, let it at once be offered in public sale, and your lordship will please give notice of this decision to the commanding general; whereupon these proceedings should be referred for the specific objects to the Governor of Bexar, who should in due time report the results to this intendency."

The opinion also provides particular direction as to the manner of making the sale. (R., 71.)

The opinion of the Asesor was adopted by the Intendent, October 31, 1817, and was duly communicated by him to the commanding general of the eastern provinces for his information. (R., 71, 84.)

In 1819 the Governor of Texas reports to the Intendent the injury caused by the overflow of the river to the city of Bexar on the 5th of July, and to the landed estate confiscated from the insurgents. (R., 76.) In his letter he says:

"The landed estate belonging to the royal domain by sequestration has been ruined by the overflow, a statement of which property I enclose herewith for the knowledge of your lordship. The unfortunate condition of this people did not allow me to offer that property for sale, as your lordship had instructed; now and for better cause it will be more difficult, and all the houses left standing will by degrees fall into ruins, as they have been considerably shattered by the overflow; even the parcels of cultivable land are no longer fit for cultivation. Therefore your lordship will please determine as you may deem most advisable in order that the royal domain may not suffer a total loss."

This letter is dated Bexar, July 19, 1819.

It is followed by this decree, signed by the Intendent: 'Let the Governor of the Province of Texas be notified that

this Intendency is informed of the occurrence referred to in the foregoing letter, and that inasmuch as the property mentioned in the accompanying list has suffered so great injury, while other property is completely falling into ruin, he will cause the same to be appraised again by experts, sworn in due form, and that it be sold at auction to be awarded to the best bidder, conforming himself, as far as the said occurrence allows, to the order given on the subject and contained in the proceedings addressed to him on the thirty-first of October, eighteen hundred and seventeen. Thus it has been determined and signed by the 'Senor Intendent Corrigidor,' of this Province, by the advice of his 'Intendent Letrado' (one versed in law) before me, which I certify.' (R., 76.)

Accompanying this document is the statement of property, "this day in existence confiscated from the rebels of the capital of Texas." Included is the one-half stock watering privilege (media dula de agua) with its land belonging to Miguel Losoya, and this property also appears on the inventory sent by the Governor, as rented for one fanega of corn. (R., 80.) In another letter, written in September, 1819, to the Intendent, the Governor encloses the new appraisement. In this appraisement the "suerte" of Miguel Losoya is valued at fifty dollars. (R., 85.) As to this, the Intendent made the order:

"Let this letter and the accompanying documents be filed with the former proceeding existing in this intendency, and be referred to the 'Promoter Fiscal' (district attorney), and, according to his request, to the Asesor." (R., 82.)

The next document is "Proceedings of the sale of the property sequestered from the rebels for the account of the Royal revenue." It contains the following order of the Governor of Texas for the sale of the property, dated Bexar,

6th of November, 1819, and addressed to Captain Don Manuel Cedron:

"The real estate sequestered in this capital from the rebels having to be sold for the benefit of the royal treasury, in order that said royal treasury may not lose all its interests, owing to the great depreciation suffered by said property, and by virtue of the orders received by me on the subject, I commission you jointly with the inhabitants, Don Vicenti Gorturi, first regidor, and Don Jose Flores, agent of said property, to proceed to said sale in accordance with the opinion of the Asesor of the Intendency of San Louis Potosi, a copy of which I enclose to you in order that you may conform to it in all its points. I do likewise enclose a statement of the houses and lands which must be sold according to the last appraisement." (R. 82.)

The report of the commissioners was made to the Governor November 22, 1819. It shows on that day they sold the sequestered property for the benefit of the royal treasury, in strict conformity with the decree of the Governor, and that the suerte of Miguel Losoya was adjudicated to Captain Don Francisco Garcia. (R. 86.)

The next document is the deed to Garcia, signed by the commissioners and dated November 23, 1819. In it they acknowledge the payment of the purchase-money for the benefit of the royal treasury. (R. 80.)

December 16, 1819, a report of the results of the sale was made by the Governor to the Intendent of San Luis Potosi, who, on the 20th of January, 1820, referred it the Promoter Fiscal (district attorney), who, April 16, 1821, returned the proceedings without recommendation.

ARGUMENT.

The Title.

The determination of the question, whether the deed to Garcia and the other confiscation proceedings constituted valid evidences of title depends upon the force and effect of the documents, tested by the law of Spain, from which sovereignty the title emanated.

If valid under that law it remained valid through the successive changes of the Government of the country in which the property is situated.

The familiar principle on the subject is thus stated by Chief Justice MARSHALL:

"The people change their allegiance; their relation to their ancient sovereign is dissolved, but their relation to each other, and their rights of property, remain undisturbed."

United States vs. *Percheman*, 7 Pet., 87.

Another principle is of equally wide application and is equally well settled as regards titles made in the name and assumed authority of the sovereign power of the country. It is thus announced by this Court:

"It is true that a grant made without authority is void under all governments; but in all the question is, on whom the law throws the burden of proof of its existence or non-existence. A grant is void unless the grantor has power to make it, but it is not void because the grantee does not prove or produce it. The law supplies this proof by legal presumption, arising from the full, legal, and complete execution of the official grant, under all the solemnities known or proved to exist or to be required by the law of the country where it is made and the land is situated.

The public acts of public officers purporting to be exercised in an official capacity and by public authority, shall not be presumed to be usurped, but a legitimate authority,

previously given or subsequently ratified. If it were not a legal presumption that public and responsible officers claiming and exercising the right of disposing of the public domain, did it by the order and consent of the government in whose name the acts were done, the confusion and uncertainty of titles and possessions would be infinite."

The Court further say, as to an official title:

"If admitted the court must receive it as evidence both of the facts it recites and declares, leading to and the foundation of the grant, and all other facts legally inferable from what is so apparent on its face."

United States vs. *Arredondo*, 6 Pet., 724–728.
See also *Delassus* vs. *United States*, 9 Pet., 134.

In Strother *vs.* Lucas, this Court again say:

"No principle can be better established by the authority of this court than that the acts of an officer to whom a public duty is assigned by his King within the sphere of that duty, are, *prima facie*, taken to be within his power."

Strother vs. *Lucas*, 12 Pet., 437.
See also *U. S.* vs. *Peralta*, 19 How., 347.

These conclusions are fully supported by the decisions of the courts of Texas in passing upon the validity of titles emanating from the officers of former governments.

Jenkins vs. *Chambers*, 9 Tex., 235.
Johns vs. *Shultz*, 47 Ib., 482.
Hanrick vs. *Jackson*, 55 Ib., 17.
State vs. *McLeon*, 64 Ib., 553.
Uhl vs. *Masquez*, 1 Unpublished Texas Cases (by S. A. Posey), 650, 655.

The inquiry in the present case is therefore narrowed down to the single question, whether title to Francisco Garcia was made by the proper authorities.

This point, as well as the general question of title un-

der the confiscation proceedings, are ably treated in the elaborate and lucid opinion of Senor Emilio Velasco, of the city of Mexico, furnished on this identical title. We adopt the following extracts from that opinion as the remainder of our argument under this head.

We submit that the considerations therein advanced and those we have already stated, clearly establish that the court below committed error in holding that the plaintiffs had failed to show a valid title under the confiscation proceedings.

To answer this inquiry, resort must be had to the Spanish law; first, we should ascertain the legal force or probative power of the documents which have been introduced, and are copied from pages 64 to 90 of the transcript of the record. These documents exist in public archives, are signed and legalized by public functionaries, and refer to business in which, in the exercise of the powers vested in them by law, these functionaries intervened.

Ley 1, Tit. 18, Partida 3d, referring to this class of documents, says:

"An instrument of writing from which an ascertainment of proof springs forth, is any chart made by hand * * * or from another authentic person worthy of belief. A very great advantage derives thereform; for it is an evidence of passed things, and an ascertainment of the litigation upon which it is made."

Gregorio Lopez, in his first note upon this law, says that three classes of instruments are mentioned in it:

"Those which are authentic and are entitled to credit by themselves, and not requiring any other support for their validity; those which bear the authentic seal of the king or others, which are called authentic; and an instrument of writing is also called authentic which is done by a functionary in a business pertaining to his office, and to which he has been assigned by the public authority." *

* The latin text is: Et habes hic tres species instrumentorum: quædam enim sunt authentica, quæ per se fidem faciunt, neque requirunt aliud adminiculum ad sui validitatem: et hæc dicuntur authentica ex appositione sigilli authentici Regis, vel aliorum. * * * Item dicitur scriptura authentica, quæ est confecta per aliquem officialem in pertinenibus ad officium suum, ad quod auctoritate publica fuit assumptus.

The documents upon the confiscation and sale are, therefore, authentic documents, and in their whole contents are entitled to full faith and credit. Thus, when the Governor of Texas affirms in them that, by order of the commanding general, the property was confiscated, the affirmation is entitled to full faith and credit. A direct proof by the introduction of a certified copy of the order of confiscation issued by the commanding general, would undoubtedly have been proper; but if it is not in existence the facts are sufficient proof that it did in fact exist:

I. The inventory made (R., 64) by Captain Don Francisco del Prado y Arce, October 27, 1814, states that the said property was confiscated by order of the commanding general, Brigadier Don Joaquin de Arredondo. From the tenor of that document it is to be deduced that the said Prado y Arce held the character of depository (custodian) and administrator of the confiscated property, and, consequently, when stating in the inventory that the confiscation had been done by the order of the commanding general he affirmed a fact connected with the exercise of public functions and on account of which he exercised these same functions.

II. The Governor of Texas forwarded to the intendent of San Luis Potosi the inventory established by Captain Prado y Arce, and, in his communication (R., 70) he stated that the property had been sequestered from the insurgents who, in 1811, took part in the revolution in Texas. The Governor of Texas, proceeded in the confiscation business in the exercise of the functions intrusted to him by law. When forwarding the inventory to the Intendent of San Luis Potosi, he accepted its contents and assumed the responsibility thereof, consequently it results from the documents authenticated by the Governor of Texas that, in consequence of having taken part in the insurrection which occurred in Texas in 1811, the property of Miguel Losoya was confiscated by the order of the commanding general, Brigadier Don Joaquin de Arredondo.

III. The opinion of Don Jose Ruiz de Aguire, the Asesor Intendency of San Luis Potosi, and the decree of the intendent, Don Manuel de Acevedo (R., 71), in which he coucurs in the opinion, are, as stated by the Governor of Texas, in the beginning of his statement of September 19, 1817,

founded on the fact that the confiscation of the property was effected by the order of the commanding general of the eastern provinces. As will subsequently appear, both the Intendent and his Asesor were judges, and in these cases acted as judges; there is reason, therefore, for affirming that, by a judicial resolution (judgment), it was declared that the property had been confiscated by the order of the commanding general, and that the report of the Governor of Texas was considered a sufficient foundation for this declaration.

IV. Finally, in the Asesor's opinion and in the decree of the Intendent of San Luis Potosi (R., 77), it was directed that a report of the decision of these functionaries should be made to the commanding general. It further appears that this decree was complied with, and there is no evidence whatever that the commanding general denied the correctness of the report made by the Governor of Texas.

These several reasons admit of no doubt that the confiscation was effected by order of the commanding general; and authorizes the affirmation that it was done by a judicial resolution by a competent authority. It was so declared; therefore this point cannot be questioned.

Having disposed of the question of fact, it remains to ascertain the provisions of law.

Ley 1, Tit. 2, Partida 7, among the cases of treason, enumerates the following:

"The third is, if any one induce, by deed or advice, a country or people owing obedience to their king to rise against him or not to obey him as well as they formerly did."

This law was repeatedly reproduced in several Spanish codes. It is law 5, Tit. 32, of the Ordonamiento de Alcula. It was included in the Recopilacion (Ley 1, Tit. 8, 18 Lib. 8), and finally it was set down as Ley, Tit. 7, Lib. 12, of the Novissima Recopilacion.

One of the penalties imposed upon a person guilty of treason was that of confiscation, established by Ley 2, Tit. 2, Partida 7, in the following words:

"And all his property must belong to the King's Cham-

ber." The same penalty was established by Ley 2, Tit. 7, Lib. 12, of the Novissima Recopilacion in these words: "All his property is for our (the King's) Chamber." See also Institutes of Asso., 1 White, Recop., 255.

The third question to be examined is the mode of procedure in the matter of confiscation.

Ley 4, Tit. 7, Lib. 12 of the Novissima Recopilacion provides that when the offense was not notorious, property is not confiscated before the accused has been head and found guilty; but, if the offense was notorious, then, without hearing the accused, confiscation should be proceeded with. This is expressed in the following words:

"It is not our will that such persons should forfeit their property and offices without having first been heard and found guilty, and let the laws of our kingdom be observed in such case unless their treason or evil deed be notorious."

The last question is, what was the competent authority for proceeding in the matter of confiscation; and, consequently, to what authority did it belong to ascertain whether the case or was not notorious, and whether confiscation was to be made without hearing the accused.

Ley 4, Tit. 7, Lib. 12, of the Novissima Recopilacion shows that the king was to take cognizance of the cases of confiscation. He it was who disposed of the confiscated property. To him complaints were addressed, and he ordered that the truth be ascertained without the form of trial. Finally, the king, in these words, "except in case the treason or evil deed committed by them be notorious and we have fully satisfied ourselves of it," reserved to himself the power of inquiring whether or not the case was notorious and, consequently, the power of confiscating the property of a person accused of treason without hearing him.

The power of taking cognizance of cases of confiscation, reserved to the king by said law, was intrusted in the Spanish colonies to other functionaries to whom, consequently, it belonged, to inquire whether or not the case was notorious; and, therefore, whether the sentence of confiscation was to be pronounced without hearing the accused party. On this point it is necessary to inquire into the provisions of the

laws in force in the territory of New Spain, which subsequently became the Mexican Republic.

The law to be considered in this case is the Real Ordenanza (Royal ordinance for the establishment and instruction of the army and Provincal Intendents in the Kingdom of New Spain, December 4, 1876).

The Asesor of the Intendency of San Luis Potosi refers to article 82 of this Ordenanza in his opinion (R., 71), wherein he recommended the sale of the property.

In Article 1 of the Ordenanza twelve Intendencies were established, one of which was that of San Luis Potosi. In Article 7 it was provided that the Alcade, Mayor or Corregidor (chief Alcade or Corregidor) of San Luis Potosi should be united with the Intendency established in its capital and province. For this reason, in the procedure of confiscation, the title of Intendent Corregidor of San Luis Potosi is assumed. This government by Intendents continued until the independence of Mexico. (Hall's Mex. Law, § 16.)

The Intendents were very high functionaries in the colony. The king reserved to himself their appointment (see end of Article 1). Their functions were various and of very different nature from each other. In Article 7 it was ordered that they should take charge of the Departments of Justice, of Police, of Finance, and War. Each of these Departments embraced highly important business of various kinds, minutely mentioned in the Ordenanza.

Article 10 provides that the civil and military Governors, among them the Governor of Texas, should subsist. These Governors still retained cognizance of judicial and police matters, together with the military command of their respective territories and matters pertaining to the Departments of Finance and War. The same article, at its close, provided that the Intendents should appoint as their subdelegates the said Governors within the territories of their respective commands.

Article 77 also says, in order that the mandates of the Intendents be complied with in relation to this matter (the Department of Finance) and to that of War, * * * they shall appoint * * * subdelegates only for matters of controversy connected with these two branches, it being understood that in the capitals and districts of the * * * government the said subdelegate shall be attributed to the Governors themselves as is provided in Article 10.

In the same Ordenanza, the matter of Department of Finance is included, in articles 75 to 249, and, among them, Article 82 is included. This article refers to confiscation which, therefore, belonged to the Department of Finance, in which the Governor of Texas acted as sub-delegate of the Intendent; and, on this account, it is to be observed, in the procedure of the confiscation of Losoya's property, that the Governor applied to the Intendent of San Luis Potosi for instructions, and acted according to the orders of the latter. As said before, the functions of the Intendent were various. The whole administration of the Department of War was intrusted to them; that which referred to taxation and fiscal property also pertained to them; they were the superior authority in the Department of Police; and, finally, they were judicial authorities.

In this latter capacity their functions were exceedingly comprehensive. The Intendents were Chief Justices in their provinces, and were intrusted with the jurisdiction which formerly belonged to the Corregidores and Chief Alcaldes (Art. 11). Article 21 specifies the laws to which, in the administration of justice, they ought to subject themselves. Articles 22 and 23 confer upon them the power of supervision and vigilance over the other justices of the Province.

Each Intendent should have a "Teniente Letrado"—a deputy versed in law. The powers of this "Teniente Letrado," as a judicial functionary, had a dual character (Art. 15). By himself, in civil and criminal cases, he exercised contentious jurisdiction; in this point of view, he was independent of the Intendent's court, and his sentences were appealed from before the audiencia (Art. 19). But, besides this, he was Asesor (adviser) of the Intendent; in this capacity all the Intendency's business, whether administrative or judicial, wherein a legal question was involved, was referred to him for his opinion to enable the Intendent to act. In this point of view the Asesor was an integrant part and parcel of the Intendency's court. For this reason in the procedure relating to the confiscation of Miguel Losoya's property, the Intendent, Don Manuel de Acevedo, called for the opinion of the Asesor, Don Jose Ruiz de Aguirre.

These explanations being made, it is proper to ascertain the legal character of the procedure in the confiscation of Miguel Losoya's property.

Art. 82 provides:

"In cases of confiscation of property situated in their provinces (those under an Intendent) and of which a viceroy, the commanding general of the frontiers, the audiences, or other tribunals have cognizance, they (the Intendents) ought not to intervene without a special permission or trust from them (the viceroy, the commanding general, the audiencia or other tribunal) while the said property is kept sequestered; but, if the same come to be confiscated by a sentence ordered to be executed, it shall be the special duty of the Intendent to proceed to the alienation thereof, and the collection of the proceeds, and also to take cognizance of all claims and controversies subsequently arising upon the confiscated property."

This precept gives rise to various consequences. The commanding general of the frontiers had the right, in the matter of confiscation, to take cognizance and pronounce sentence of confiscation. We have already stated that, according to the Ordenanza de Intendentes (Art. 10) the Governors of provinces, besides having the military command, attended to matters of Justice and Police, so that they exercised the military command, were in charge of civil administration, and constituted a tribunal.

Thus, in matters of confiscation, in which the commanding general intervened, it behooved him to follow the procedure established by Ley 4, Tit. 7, Lib. 12 of the Novissima Recopilacion, and to exercise the powers which the King exercised in the metropolis; and, consequently, it pertained to him to inquire whether or not the crime was notorious that he might order confiscation without hearing the accused.

In the proceedings relating to the confiscation of Miguel Losoya's property, it is stated that "the commanding general of the eastern provinces" confiscated this property. The Intendent Corregidor of San Luis Potosi and his Asesor recognized him as such; therefore it is not permissible to doubt that the commanding general of the eastern provinces was a commanding general of the frontiers, and consequently had the power to take cognizance of matters of confiscation. It follows, then, that the confiscation of Miguel Losoya's property was ordered by an authority clothed by law to that effect.

When inquiring into the probative force of the documents

upon confiscation, contained in the transcript of the record, we said it was fully proved by them that Miguel Losoya's tract of land was confiscated by the commanding general, above mentioned and, among the reasons, we stated that the proceedings of the Intendency had a judicial character with the force and effect of judicial decision.

Art. 78 of the Ordenanza de Intendentes provides:

"As to what pertains to the exercise of contentious jurisdiction in the proceedings and business of my revenue the Intendents shall take special and exclusive cognizance, with inhibition of all magistrates, tribunals and audiences of that kingdom. * * * They shall also act in all causes in which any interest may accrue * * * to my royal exchequer, or which may pertain to any of the branches or rights thereof under administration or in lease, both in respect to collection and to all matters incident thereto."

The provisions of Art. 82, in that part thereof which orders that when property shall be confiscated it shall be the special and exclusive duty of the Intendents to proceed to the alienation and to take cognizance of controversies which may be subsequently raised upon the confiscated property, are a consequence of this precept. Confiscation once declared, the property belonged to the Fisc and, therefore, as property in which the royal exchequer held an interest, it remained subject to the exclusive jurisdiction of the Intendents both for ordering the sale, and for taking cognizance of controversies raised concerning it.

According to Art. 77 the military governors, as subdelegates of the Intendent, were his subordinates. The powers of these sub-delegates, says the same article, in reference to the two branches above mentioned (Finance and War), extended only to the proceedings instituted by them until they were placed in a position to undergo sentence, and, when in that condition, they were to forward the proceedings to the Intendent of the province for his decision, according to justice, in concurrence with his Asesor.

The Governor of Texas instituted the proceedings in the condition in which the confiscated property was in 1817. The purpose of this procedure was to effect the sale of said confiscated property. Under Art. 77 it pertained to him to institute it; but the sentence that had to be pronounced as to whether or not it must be sold, whether or not there was

a legal cause for sale, and whether or not the condition of the property was such as to require sale, was a resolution (judgment) which, according to Art. 77, could only be pronounced by the Intendent after having heard his Asesor.*

In accordance with these rules the Governor of Texas instituted the proceedings sent them to the Intendent of San Luis Potosi, who asked the Asesor's opinion, and, concurring in it, pronounced sentence ordering that the property be sold.

In determining this point the Intendent and his Asesor had principally to inquire whether the confiscation was legal; or, in other words, whether a competent authority had ordered it. They (the Intendent and his Asesor) admitted that the commanding general of the eastern provinces had made the confiscation. They considered as sufficient proof of that fact the statement contained in the proceedings instituted by the Governor of Texas. Their adjudication in this case was legal, because the Governor was a public functionary, who, in the exercise of his functions, had instituted the proceedings; and, according to Ley 1, Tit. 18, Partida 3, and to the note by Gregorio Lopez, above recited, that which he stated in those proceedings in relation to the business intrusted to him by law was entitled to faith.

But besides this, in the exercise of the authority vested in them by law to formulate a decision as to whether there was or was not occasion for the sale of the property, the Intendent and his Asesor had to inquire whether there was any confiscation. They, to whom the law gave jurisdiction for pronouncing the sentence of sale, had to examine and settle the proofs of the existence of the fact of confiscation. They may have believed, as sufficient to establish that fact, the proceedings instituted by the Governor; they might also not have considered them as sufficient, and demanded ampler information on the subject. In either case they acted in the exercise of their jurisdiction. They deemed the proceedings offered sufficient *data* for ordering the sale, and considered that the fact of confiscation ordered by the commanding general was sufficiently proved by the Governor's report.

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* Many of the sections of the Ordenanza de Intendentes above quoted will be found translated in—

1 White Recop., 357;
2 White Recop., 68;
Hall's Mex. Law, §§ 15–84.

They may have been mistaken; but, at all events, their sentence is final and a legal truth.

The Ordenanza de Intendentes gave them jurisdiction to take cognizance of claims and litigations arising after confiscation upon the confiscated property; and, to this end, the Fiscalles (King's Attorneys) had to report to them the distraints which had taken place to enable them, according to such report, to recover the property. In the long interval of time after Losoya's land was sequestered which elapsed before the sale, he, or his heirs, if he had died, might have claimed against the confiscation and instituted before the Intendent a suit to have the confiscation declared not legal. They did nothing of the kind, thus accepting the proceedings; and, the sale once effected, the law offered no remedy either against the sentence ordering the sale or against the sale. Therefore, the title by virtue of which Captain Garcia acquired the tract of land is perfectly legal; it emanated from a judicial procedure, pursued by a competent authority and against which there is no recourse.

Assuming that there may have been some flaw in the sale of the property, yet it is a title which preserved its force against all persons except against the true owner. This principle, adopted in legislation, and in Spanish jurisprudence, is derived from the Roman law.

The latter law distinguished the case in which property had been sold by the owner from the case in which it had been sold by one who was neither the owner nor possessed of the right to sell. In the first case dominion was transferred; in the second case the vendee acquired a right to the thing, superior to that of any other person except the owner. In the first case the acquirer (vendee) could exercise against a third party who had taken possession of the property the real "actio de dominio;" in the second case the vendee could also exercise against third parties, in the same situation, the real "actio publiciana" to obtain a recovery of the property.

The laws of the digest "de publiciana in rem actione" treat extensively this subject. According to the first law, he who claimed the thing by virtue of a just title, even if he had not prescribed it, provided it was not claimed by the true owner, obtained judgment, and, according to the third law, the vendee in good faith has a just title, and may resort to the "actio publiciana."

Escriche, in his dictionary of legislation, word "accion

publiciana," treats this subject, in the sense to which we have just referred, and quotes Ley 13, Tit. 11, Partida 3, and the final part of Ley 50, Tit. 5, Partida 5.

The theory of this action, according to Escriche, is that it invests with the character of owner one who is not yet such, but who has a better right to the thing than a third party. In this sense, this action was introduced into the Spanish legislation, but without giving it the special characteristic which it had in the Roman law, and without distinguishing it from the action *de dominio* with which it remained blended, with this difference only, that the *titulo colorado* (or color of title) was a legal title against all persons except the true owner; hence it results that a third party, whose title does not emanate from the owner, cannot question the validity of the title, because against him that the title is a proof of dominion in favor of the vendee. By virtue whereof the defendants have no right to deny the legality and validity of the plaintiff's title unless they alleged and proved that they were the assignees or transferees of Losoya's rights—a pretension which they have never made.

Among the laws quoted by Escriche is Ley 50, Tit. 5, Partida 5, in the final part whereof it is said, that if a thing belonging to another person is sold to two persons at different times, he who took possession first has the better right to it, always reserving the right of the true owner; consequently, color of title, coupled with possession, gave to the vendee a real right against every one except the owner, and, therefore, it is not lawful for third parties to impugn the title, thus exercising the right reserved alone to the owner or his successors.

If subsequently to taking possession the vendee loses possession before prescribing the thing, his right is superior to that of all persons except the owner. He may pursue his action against third parties in the capacity of owner, resting on the purchase and on subsequent possession, because third parties have no right to question the validity of the title. In such case judgment should be pronounced declaring ownership in favor of the vendee; but such judgment bears no prejudice to the true owner who had not litigated, and who, during the term of prescription, may either exercise his right *de dominio*, or in case the thing has returned to his power, oppose the exception *de dominio* against the person who would sue him for it.

This is conclusively expressed in Ley 20, Tit. 22, Partida 3. According to this law a judgment rendered against one person bears prejudice to another; therefore, says the law, if one who is owner of a field or other thing should see or know that another party had sued a third party, in possession, for it, and judgment was rendered in favor of the plaintiff, the owner of the thing may claim it from whomsoever holds it. The judgment does not injure the owner, because the person who held the thing and occupied it, and against whom judgment was rendered, did not hold possession by the mandate of the owner. Therefore, according to the Partida laws there is an essential difference between the true owner and a third party. The latter cannot exercise the rights belonging to the owner, because he has no mandate from him; and, consequently, cannot object to the validity of the title by virtue of which the thing passed into the power of the vendee—that title is sufficient to hold the thing from third parties on account of dominion.

The difference between the owner and a third party is this:

The title does not injure the former except where the term of prescription has expired; but it injures the latter even when prescription has not run.

But, in the condition of this case, even the true owner cannot impugn the title, because, assuming that it had defects and that the property was sold by one who had no right to sell it, all this was healed by prescription, by virtue whereof the title remained perfect.

For prescribing real estate the requisites were: just title, good faith, possession, the time specified by law, and the prescriptibility of the thing. (Ley 18, Tit. 29, Partida 3.)

A just title is one which, by its nature, transfers dominion; such as a deed of sale (Ley 18, Tit. 29, Partida 3). Such just title exists in this case.

Good faith is a belief entertained by the possessors that the persons from whom he received the thing was the proprietor of it, or at least, was authorized to alienate it (Ley 12, Tit. 29, part 3). Good faith is always presumed (Escriche, word prescription), because it is never presumed that a person has been guilty of an act reproved by law. This condition also exists in this case.

Possession should be acquired without violence, be public and continuous (Escriche, Article, Prescription, the third re-

quisite). In the present case possession was acquired without violence, for the vendee used none in acquiring the tract of land; it was public, because it was acquired in consequence of a sale made at public auction, and it was continuous, because it was not interrupted until after 1843.

Ley 29, Tit. 29, Partida 3, specifies the cases in which prescription is interrupted, none of which took place in the present case. Possession lasted the time established by law. That time was ten years between those present, and twenty years between those absent (Ley 18, Tit. 29, Partida 3). By those present is meant those who are in the province, although not precisely in the place where the thing is (end of Ley. 19, Tit. 29, Partida 3). If Losoya or his heirs were in Texas from 1819 to 1829 the ten years' prescription was sufficient; and if they were abroad, twenty years was required; and if they were present a part of the time and absent a part of the time, their time of presence is computed with relation to the term of ten years, and their time of absence counts double (Ley 20, Tit., 29, Partida 3).

By prescriptibility of the thing is meant that the thing be liable to be prescribed; and in this point of view all things may be prescribed which exist in the commerce of men (Escriche, word prescription, the fifth and last requisite). This condition is also fulfilled within this case.

Summing up: November 22, 1839, the day when twenty years expired from the day of the sale of Losoya's land at public auction, the title remained prescribed and perfect, and in such condition that not even the true owners could claim against it the *actio de dominio* even against them being in force.

Plaintiffs' Exceptions and Demurrers.

Assuming that errors have been shown in the particulars already indicated, it becomes pertinent, in view of another trial, to inquire into the correctness of the ruling of the court upon the special exceptions interposed by plaintiffs to the special defences of laches and stale demand; presumption of grant from an alleged long possession; value of improvements in good faith; estoppel from non-assertion of title for a long period of time, and alienage. (Record pp. 46–7; and bill of exceptions No. 3, record pp. 169–170.)

1. Laches—Stale Demand.

Even in Texas under the very liberal system of practice there prevailing the defence of stale demand is not available as against a strictly legal title. (*Satterwhite* vs. *Rosser*, 61 Tex., 172; *Williams* vs. *Conger*, 49 Tex., 602; *Murphy* vs. *Welder*, 58 Tex., 235; *Carlisle* vs. *Hart*, 27 Tex., 350.)

In *Murphy* vs. *Welder* the court say:

"The cases of *Carlisle* vs. *Hart*, 27 Tex., 350, and *Connelly* vs. *Hammond*, 51 Tex., 648, in which the defence of stale demand was successfully interposed, were both cases in which the parties setting up the claim had only an equitable right which they had failed to assert for ten years or more before the date of suit, without alleging any satisfactory explanation of their laches. On the other hand, in the present case, the defendants in error have a clear legal title to the land in suit, perfect on its face, and to such a title the plea of stale demand alone could not possibly constitute a defence." 58 Tex., 241.

The rule announced by the Supreme Court of Texas in the cases above referred to is in harmony with the decisions of this court.

2. Presumption of Grant.

In *Sulphen* vs. *Norris*, 44 Tex., 242, it is said:

"Notwithstanding the doctrine of presumption of grants from the government seems to be recognized by this court, yet no case has gone to the length of establishing a title based on presumption.

"It is not pretended that McWilliams, from whom plaintiffs' ancestor bought, had any title.

"We understand the rule to be, in this class of cases, when a title is to be shown from the government, that juries may be told that they can presume a grant to have issued, not that they must so presume. No well-considered case can be found, we apprehend, where a grant has been presumed, it

the party in making out his case shows that in fact no grant ever did exist, or where he fairly disproves the presumption.

"We think it now pretty well understood that this presumption is subject to be disproved just as you might disprove or defeat limitation when pleaded in a suit, by showing a payment, or an admission, or any other fact which would rebut the presumption arising from the lapse of time. (*Taylor* vs. *Watkins*, 26 Tex., 688, and authorities cited.) On the other hand, cases may be found in which courts and juries have gone to the length of presuming a grant in the face of the almost admitted fact that none ever did in fact exist. This class of cases, however, is referable to incorporeal hereditaments and not to the thing or fee. Centuries had elapsed in the history of landed property before it was even supposed that the presumption of a grant could be indulged by the courts against the crown, but finally the subterfuge before spoken of was resorted to."

The presumption of the regularity and validity of a grant indulged in favor of innocent purchasers is a very different thing from presuming the existence of a grant. (*Blythe* vs. *Sutherland*, 40 Tex., 65.)

For facts which justify the presumption of a grant see *Shepherd* vs. *Harrison*, 54 Tex., 91–96.

To raise the presumption of a grant some evidence must be given tending to show title good in substance, though wanting some essential matter to make it formally complete, and a possession consistent with the grant to be presumed. (*Enders* vs. *Sternberg*, 2 Abbott Court of Appeals, ——.)

But it is to be observed that the plaintiff, Pilar Garcia de Sabariego, against whom the presumption of a grant is invoked, is now and since investiture of title has been a feme covert, against whom the presumption of a grant cannot be indulged. (*Gilman* vs. *Tilton*, 5 N. H., 233–4.)

In Washburn on Easements, 2d edition, page 156, it is said:

"No presumption of grant, therefore, arises from adverse

enjoyment against a feme covert or a minor or an insane person, nor would the admission of a feme covert that such grant existed be admitted as evidence against her."

This proposition is supported by the following citations: *Watkins* vs. *Peck*, 13 N. H., 360; *Melvin* vs. *Whiting*, 13 Pick., 184; *Reimer* vs. *Stuber*, 20 Pa. St., 458–463; *Edson* vs. *Munsell*, 10 Allen, 557, and *McGregor* vs. *Wait*, 10 Gray, 74.

The distinction between the presumption of a grant from the Government and the presumption of an intermediate link in the chain of conveyance is recognized in *Biencourt* vs. *Parker*, 27 Tex., 573.

To sustain the presumption of grant it must be by definite boundaries and coextensive with them. *Sulphen* vs. *Norris*, 44 Tex., 243; *Daingerfield* vs. *Paschal*, 11 Tex., 579.

3. Value of Improvements.

The provisions of the statute of Texas on the subject of improvements are as follows:

"The defendant, in an action of trespass to try title, may allege in his pleadings that he and those under whom he claims have had adverse possession in good faith of the premises in controversy for at least one year next before the commencement of such suit, and that he and those under whom he claims have made permanent and valuable improvements on the lands sued for during the time they have had such possession, stating the improvements and their value, respectively, and stating, also, the grounds of such claim." Art. 4813, R. S.

"Where the defendant has filed his claim for allowance for improvements in accordance with the preceding article, if the court or jury find that he is not the rightful owner of the premises sued for, but that he and those under whom he claims have made permanent and valuable improvements thereon, being possessors thereof in good faith, the court or jury shall, at the same time, estimate from the testimony—

"1. The value at the time of trial of such improvements as were so made before the filing of the suit, not exceeding

the amount to which the value of the premises is actually increased thereby.

"2. The value of the use and occupation of the premises during the time the defendant was in possession thereof (exclusive of the improvements thereon made by himself or those under whom he claims), and also, if authorized by the pleadings, the damages for waste or injury to the premises committed by him, not computing such annual value for a longer time than two years before suit nor damages for waste or injury done before said two years.

"3. The value of the premises recovered without the improvements made as aforesaid." Art. 4814, R. S.

With reference to the succeeding articles on the claim for improvements it will not be necessary to reproduce them here in full.

By Art. 4,815, R. S., if value of improvements exceed rent and damages, the rent and damages are to be estimated for the purpose of balancing the claim for improvements, and no further; and the defendant is not to be liable for any excess, if any, beyond the value of the improvements.

By Art. 4,816, R. S., if rent and damages exceed the value of the improvements, the plaintiff is entitled to a judgment for the excess and for the premises.

By Art. 4,817, R. S., where judgment is rendered for defendant for the excess of the value of improvements over rents and damages, the plaintiff cannot have writ of possession until after the expiration of one year, unless he pay the judgment with interest.

By Art. 4,818, R. S., if the plaintiff neglect to pay within the year, the defendant is allowed six months after the year to pay the value of the land without improvements, and to forever bar plaintiff of his writ of possession.

By Art. 4,819, R. S., if defendant fails to pay for the land, as aforesaid, the plaintiff is entitled to his writ of possession.

By Art. 4,820, R. S., the judgment is required to recite the value of the land without the improvements, and to contain directions, etc., required by the preceding articles.

It would seem that the defence thus interposed is an equitable one, and not permissible on the law side of the court.

4. Estoppel.

It is clear that no facts amounting to an estoppel were alleged against plaintiffs. Reliance is placed solely on the fact that plaintiffs for a long period have failed to assert title to or exercise dominion over or pay taxes or other charges against the land. This is not sufficient to defeat plaintiffs' action. *Moss* vs. *Berry*, 53 Tex., 633; *Williams* vs. *Conger*, 49 Tex., 602; *Murphy* vs. *Welder*, 58 Tex., 241.

In *Murphy* vs. *Welder* it is said:

"No conclusion, adverse to the legal title of the true owner, can be drawn from the fact that, after his title is perfected, he refrains for a long period of years to take corporeal possession of his land." (49 Tex., 241.)

Again, in *Williams* vs. *Conger*, Mr. Justice Moore observes:

"We know of no authority to warrant the court in holding that the mere failure to pay taxes, or the laches or delay of the owner in bringing suit for the recovery of the land to which he has a legal title, will defeat his action where there has been no actual adverse possession for a sufficient length of time to support a plea of limitation." (49 Tex., 602.)

This ruling is approved and followed in *Moss* vs. *Berry*, where it is said:

"Laches of the owner of the legal title in suing and paying taxes will not defeat his action, where there has not been actual adverse possession for a sufficient time to support the plea of limitation." (53 Tex., 633.)

The remaining issues made by the pleadings are not before this court for determination. Whether the defendants are protected under their several pleas of limitation or by

other defences interposed, dependent upon proofs, and whether the plaintiffs can bring themselves within the exceptions to the statutes of limitation, are mixed questions of fact and law to be determined by the trial court.

5. Alienage.

It cannot be definitely determined from the record what action was taken by the court on the plea of alienage. The fact that the court proceeded to determine the question of title would indicate that the plea was disregarded; yet the assignment of errors and bill of exceptions allege as error the refusal of the court to sustain the exception to the plea presented by plaintiffs in their supplemental petition. Because of this uncertainty it has been deemed proper to present the question.

There can be no question of the right of plaintiffs to sue as aliens for the recovery of the property in controversy, and for the rents and profits thereof.

Whether plaintiffs are entitled to recover is a different question, and depends upon the validity of their title.

In *Oritz* vs. *De Bennavides*, 61 Tex., 62, the Supreme Court of Texas expressly recognize, upon the authority of *Jones* vs. *McMasters*, 20 How.; *Sabariego* vs. *White*, 20 Tex., and *Andrews* vs. *Spear*, 48 Tex., the right of an alien plaintiff claiming title by inheritance to maintain an action for the recovery of lands in Texas.

The case also shows, notwithstanding the seeming adverse intimation of the court in *Cryer* vs. *Andrews*, 11 Tex., 170, that an alien *feme covert* may, under proper pleadings, make available, as against the plea of limitation, the exceptions contained in the statute in favor of *femes covert*.

In *Wiederanders* vs. *The State*, 64 Tex., 133, 138, *et seq.*, it is held:

1. That, by express provision of the Constitution of the

Republic of Texas, aliens could take by inheritance from a citizen and were entitled to a reasonable time within which to become citizens or to dispose of their estate; and, further, that the act of Jan. 28, 1840, re-enacted March 18, 1848, fixed nine years as a reasonable time, and provided that, unless an alien should become a citizen or dispose of the estate within that period, it should be declared forfeited and escheated to the State.

2. That an estate in fee vests in an alien immediately on the death of the ancestor, subject to be defeated by his failure to become a citizen or to dispose of the estate within the period prescribed by statute. This, say the court, is not a limitation, but a condition subsequent, and on failure to comply with it the resumption of the estate must be by entry under judicial process; and—

3. That, no provision having been made by the legislature for escheating lands which had descended to alien heirs, the courts are without jurisdiction to declare such escheats. (See also *Hanrick* vs. *Patrick*, 119 U. S., 156.)

The concluding clause of the 8th Article of the treaty of Guadalupe Hidalgo, concluded February 2, 1848, and proclaimed July 4, 1848, provides:

"In the said territory property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these and all Mexicans who may hereafter acquire said property by contract shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States." (Rev. Stat., relating to Post Roads, Public Treaties, &c., page 496.)

In *State* vs. *Sais*, 47 Tex., 307, it is said: "This treaty is binding as a law for the protection of title." * * * "It is the duty of a court to know and follow the law existing in any part of the present limits of the State at the time and under which a title to land was acquired. * * *

"Where one Government succeeds another over the same territory in which rights of real property have been acquired the preceding government is not a foreign government whose laws must be proved in the courts of the succeeding Government." (Ib.)

Again, in *Quella* vs. *State*, 47 Tex., 304–5, the Supreme Court say:

"It is the business of the courts of Texas to know and expound the laws pertaining to the rights to land situated in Texas and here in suit, whether the laws upon which the right to the land depend are laws made by the State of Texas, by the Republic of Texas, by the State of Tamaulipas as part of Mexico, or by Spain."

In *United States* vs. *Moreno*, 1 Wallace, 404, it is said:

"When the sovereignty of Spain was displaced by the revolutionary action of Mexico, the new Government established regulations upon the same subject.

"These two sovereignties are the spring-heads of all the land titles in California existing at the time of the cession of that country to the United States by the treaty of Guadalupe Hidalgo. That cession did not impair the right of private property. They were consecrated by the law of nations, and protected by the treaty. The stipulation was but a formal recognition of the pre-existing sanction in the law of nations. The act of March 3, 1851, was passed to assure to the inhabitants of the ceded territory the benefit of the rights of property thus secured to them. It recognizes alike legal and equitable rights, and should be administered in a large and liberal spirit. A right of any validity before the cession was equally valid afterwards, and, while it is the duty of the court in the case which may be brought before it to guard carefully against claims originating in fraud, it is equally their duty to see that no rightful claim is rejected. No nation can have any higher interest than the right administration of justice."

In *Brownsville* vs. *Cavazos*, 100 U. S., 138, it is remarked:

"By the treaty of Guadaulupe Hidalgo, ratified on the 30th of May, 1848, the Rio Grande was acknowledged to be the boundary between Mexico and the United States, when, of course, the jurisdiction of Tamaulipas over the premises in controversy ceased, but the rights of private property previously existing east of the Rio Grande were in no respect affected.

"If they had arisen before the independence of Texas their validity was to be determined by the laws of Mexico or Tamaulipas then in force."

The treaty of Guadalupe Hidalgo must be construed to protect a title which accrued before the independence of Texas. (*Brownsville* vs. *Cavazos*, 100 U. S., 138; *State* vs. *Sais*, Sup. Protocol to the treaty of May, 26, 1848). But, whether covered by treaty or not, such a title, when valid, has always been respected and sustained in Texas; and the right to enforce it, although asserted by alien, is now too well settled to be questioned. (*Jones* vs. *McMasters*, 20 How., 8, approved in *Sabariego* vs. *White*, 30 Tex., 576; *Airhart* vs. *Massieu*, 98 U. S., 491; *Hanrick* vs. *Hanrick*, 54 Tex., 101, approved and followed by this court in *Hanrick* vs. *Patrick*, 119 U. S., 156; see, too, *Kilpatrick* vs. *Sisneros*, 23 Tex., 125, *et seq*; *Barrett* vs. *Kelley*, 31 Tex., 483; *Baldwin* vs. *Osterman*, 6 Wall., 116; *Philipps* vs. *Moore* (a Texas case), 109 U. S., 208.)

In the Protocol to the treaty concluded May 26, 1848, amongst other explanations touching the suppression of the 10th Article of the original treaty, it is declared:

"Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories are those which were legitimate titles under the Mexican law in California and New Mexico up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836." (Rev. Stats. relating to Post Roads, Public Treaties, &c., page 502.)

Let us revert to plaintiff's title and the law by which it is to be tested.

1. Francisco Garcia, the ancestor of plaintiff, Pilar, and the owner of the premises in controversy, died in La Bahia (Goliad), Texas, in 1834, while Texas yet constituted a part of the Republic of Mexico. He left surviving him his widow, Gertrudes Berrera, and a daughter, Pilar, the then wife of Sabariego, the present plaintiff, who was the

only issue of the marriage. Garcia and Gertrudes Berrera intermarried in Texas in 1816, and acquired title to the property in 1819.

Upon the death of Garcia, the property descended, as to an undivided one-half, to his daughter, Pilar. (*Solomon* vs. *Maynard*, Dallam 548.)

In *Sabariego* vs. *White*, 30 Tex., 576, this is recognized as the rule of descent.

In the case last referred, with respect to one league and a half of land, which was granted, in the municipality of Goliad on the 6th day of August, 1833, to Gertrudes Berrera, it is said:

"The plaintiff, Pilar, having inherited one moiety of a league and a half of land from her father, who died in Texas before the revolution, and who had never left the territory, her full dominion over that moiety accrued before she left Mexico, and her right to it was complete on the death of her father, in 1854." (*Ib.*, 590.)

Gertrudes Berrera, the mother of Pilar, died in Matamoras, Mexico, in 1843. Pilar's claim is, therefore, by descent: (1) As to one-half, in 1834, as sole heir of her father; and (2) as to the other half, in 1843, as the sole heir of her mother.

The title to the half derived in 1834 having arisen before the independence of Texas—declaration whereof was made March 2d, 1836—its validity is to be determined by the laws of Mexico then in force. (*Brownsville* vs. *Cavazos*, 100 U. S., 138; *State* vs. *Sais*, 47 Tex., 307; *Sabariego* vs. *White*, 30 Tex., 576; Peeler's Law and Equity, sec. 55, page 195.) Of these laws the courts take judicial notice, and no proof thereof is necessary. (*United States* vs. *Perot*, 98 U. S., 428; *Cuella* vs. *The State*, 47 Tex.) And the interpretation thereof by the State courts will be followed by the Federal Courts. (*Christy* vs. *Pridgeon*, 4 Wall., 195.)

With respect to the half of the premises derived through her mother, if the right of Pilar Garcia accrued when the

grant was made to her father in 1819—as seems to be held in *Sabariego* vs. *White, supra*—unless affected by his death, her title as to such portion, instead of resting wholly upon descent at the death of the mother, in 1843, would seem to relate back to the date of the grant; but, be this as it may, Pilar's right to take and recover the inheritance derived from her mother is sustained by the authorities already referred to.

The Revised Statutes of Texas, under the title "Trespass to Try Title," contains the following provision taken from section 6 of the act of February 5, 1840, inserted as article 4812:

"Nothing under this title shall be so construed as to alter, impair, or take away the rights of parties arising under the laws in force before the introduction of the common law; but the same shall be decided by the principles of the law or laws under which the same accrued or by which the same were regulated or in any manner affected."

It is, however, immaterial whether the laws of Mexico be resorted to in determining the rights of Pilar to that portion of the premises derived from her father and the laws of Texas and the common law as to that derived from her mother. The result is the same; she is in either case entitled to maintain the suit and recover unless her rights have been lost.

We submit that the judgment should be reversed.

W. Hallett Phillips,
John Hancock,
S. R. Fisher,
For Plaintiffs in Error.

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CLERK.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1884.

No. ~~1007~~. 67

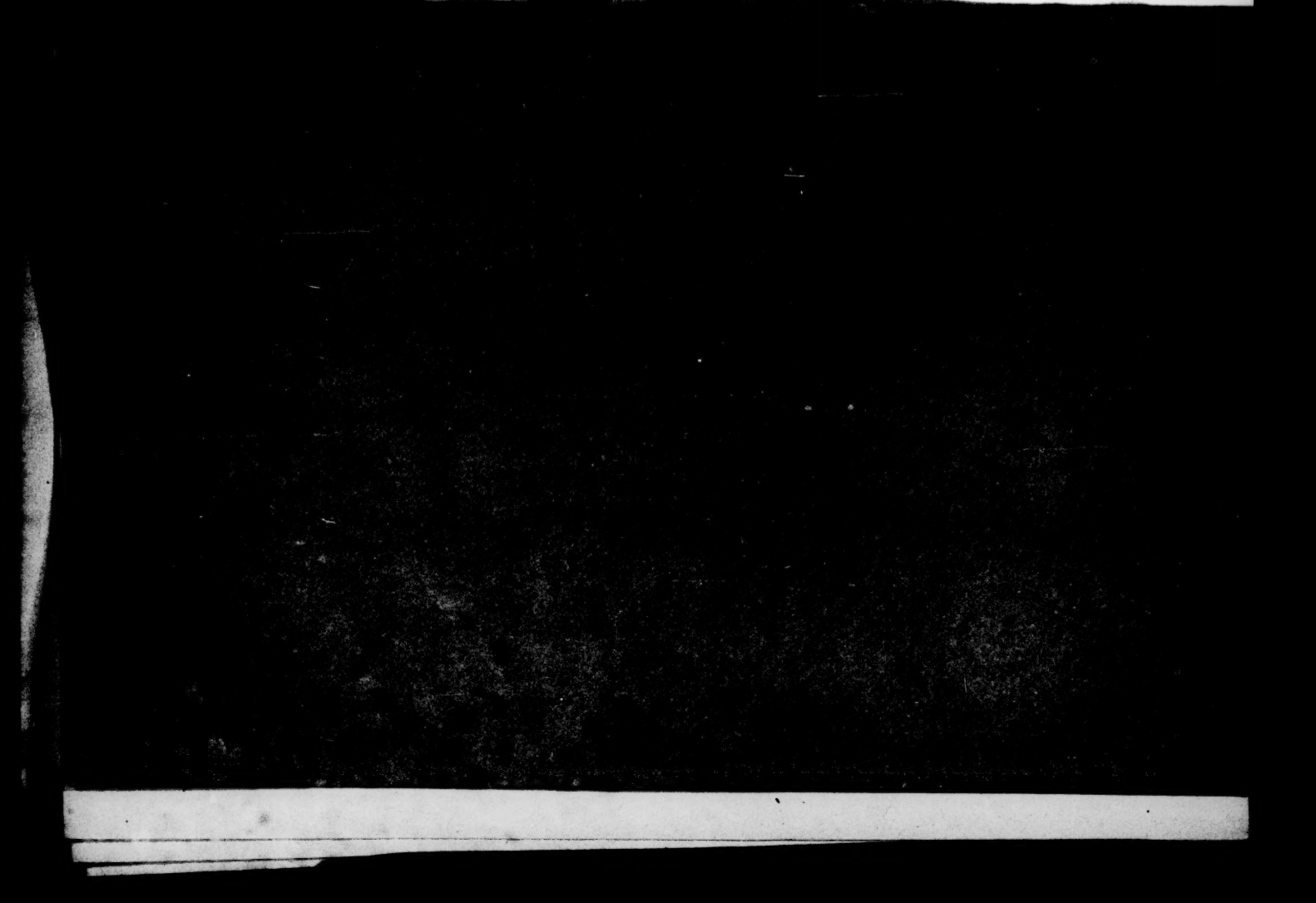
PILAR GARCIA DE SABARIEGO, ET AL.,
Plaintiffs in Error,

vs.

MARY A. MAVERICK, ET AL.,
Defendants in Error.

Error to the Circuit Court of the United States for the Western District of Texas.

BRIEF OF DEFENDANTS IN ERROR ON MOTION FOR A WRIT OF CERTIORARI.



Supreme Court of the United States.

No. 1007.

PILAR GARCIA DE SABARIEGO *et al.*, *Plaintiffs in Error*,

vs.

MARY A. MAVERICK *et al.*, *Defendants in Error.*

Brief of Defendants in Error on Motion for Certiorari.

1. In support of their motion for a Writ of Certiorari the defendants in error beg leave to call the attention of the Supreme Court to the fact that while translations of the "partition proceedings" and of the so-called "confiscation proceedings and deed from Commissioners to Francisco Garcia" are incorporated in the first Bill of Exceptions of plaintiffs in error and thus made a part of the Transcript, the Spanish papers, from which the translations were made, are omitted.

We respectfully submit, that these papers in the Spanish language are necessarily a part of the record, and should be subject to the inspection of the Court. Rule 11 of this Court provides, that "Whenever any record transmitted to this Court upon a writ of error or appeal shall contain any document, paper, testimony, or other proceedings in a foreign language, and the record

does not also contain a translation of such document, paper, testimony, or other proceedings, made under the authority of the inferior Court, or admitted to be correct, the record shall not be printed; but the case shall be reported to this Court by the clerk, and the Court will thereupon remand it to the inferior Court, in order that a translation may be there supplied and inserted in the record."

If, then, as this rule prescribes, this Court will not proceed to the hearing of a cause or even permit the record to be printed without a translation of a document in a foreign language, it seems to us quite as important that the document or paper, of which a translation is furnished, should accompany the translation and be made a part of the record.

2. In the original petition in this cause Mrs. E. A. M. Houston, Dr. J. R. Smith and C. Upson, as executor of the estate of James Vance, deceased, were made defendants. Each of these parties filed a disclaimer, as stated in the affidavit in support of the motion for certiorari; and upon these disclaimers an order was made by the Circuit Court dismissing them. This order is embodied in the record, but not so the several disclaimers. While the plaintiffs in error may not object to the order of dismissal, or claim its entry as error, we yet think that the record should show the reason for the order, in case objection thereto should be made.

3. Defendants in error also complain of the omission from the record of the abstract of the claim or title of the plaintiffs to the land in controversy in this cause, filed before trial in the Circuit Court, on demand of the defendants.

The omission of this abstract is more serious, as defendants think, than the other omissions complained of, in view of the provisions of the Statute of Texas upon the subject of "Trespass to try title," by which, as we understand the matter, the Courts of the United States are governed in cases of this character. The Articles of the Revised Statutes of Texas, here applicable, are as follows:

"ART. 4796. After answer filed, either party may, by notice in writing, duly served on the opposite party or his attorney of record, not less than ten days before the trial of the cause, demand an abstract in writing of the claim or title to the premises in question upon which he relies."

"ART. 4797. Such abstract of title shall be filed with the papers of the cause within twenty days after the service of the notice, or within such further time as the Court, on good cause shown, may grant; and in default thereof, no evidence of the claim or title of such opposite party shall be given on the trial."

"ART. 4798. The abstract mentioned in the two preceding Articles shall state:

"1st. The nature of each document or written instrument intended to be used and its date; or,

"2d. If a contract or conveyance, its date, the parties thereto and the date of the proof or acknowledgment, and before what officer the same was made; and,

"3rd. Where recorded, stating the book and page of the record.

"4th. If not recorded in the County where the trial is had, copies of such instrument, with the names of the subscribing witnesses, shall be included.

"If such unrecorded instrument be lost or destroyed, it shall be sufficient to state the nature of such instrument and the loss or destruction."

"ART. 4799. The Court may allow either party to file an amended abstract of titles, under the same rules which authorize the amendment of pleadings so far as they are applicable; but in all cases the documentary evidence of the title shall at the trial be confined to the matters contained in the abstract of titles."

It is respectfully submitted by the defendants in error that under these provisions of the Texas Statute an abstract of title,

demanded and filed as in this case, is as material as the pleadings of the parties, and that therefore it should be as much a part of the record as the pleadings for the proper adjudication of the cause.

If the assignment of errors confined itself to the ruling of the Circuit Court upon the papers set out in plaintiffs' abstract and offered in evidence, the omission of the abstract from the record would be less material, but plaintiffs also assign as error the ruling of the Court below "in refusing, upon the objection of defendants, to allow or give weight to any of the proofs offered by plaintiffs in support of their title as set forth in their first Bill of Exceptions."

We might assume, that the counsel of plaintiffs would not undertake to offer evidence of an equitable title in an action at law, yet from the statement of offers made it would seem that they were attempting to rely upon equities, which have no foundation in fact, or upon matters — whether documentary or oral does not appear — which were not admissible under their pleadings and certainly not noticed in their abstract of claim or title, by which the admissibility of at least some of the evidence offered must be judged. Hence we think that the abstract filed should be incorporated in the record and respectfully ask that the motion for a writ of certiorari be granted.

JACOB WAELDER,
One of the defendants, for himself and
in behalf of his co-defendants.

C. UPSON,
Attorney for the motion.

124-2d

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CLERK.

No. ~~345~~. 67

IN THE

SUPREME COURT

OF THE UNITED STATES.

OCTOBER TERM, A. D. 1887.

PILAR GARCIA DE SABRIEGO AND
MANUEL SABRIEGO, *Plaintiffs in Error,*

vs.

MARY A. MAVERICK, *Et Al., Defendants in Error.*

From Circuit Court U. S. Western District of Texas.

BRIEF.

JOHN IRELAND,
Counsel for Defendants in Error.

No. 345.

IN THE

SUPREME COURT

OF THE UNITED STATES.

OCTOBER TERM, A. D. 1887.

PILAR GARCIA DE SABRIEGO AND
MANUEL SABRIEGO, *Plaimtiffs in Error*,

vs.

MARY A. MAVERICK, *Et Al.*, *Defendants in Error.*

From Circuit Court U. S. Western District of Texas.

BRIEF.

JOHN IRELAND,
Counsel for Defendants in Error.

This suit was brought to recover a *suerta* of land described in the pleadings, in the heart of the city of San Antonio. The property sued for originally belonged to one Miguel Losoya, under whom all the defendants claim and hold.

Sam'l A. Maverick being the purchaser from Losoya, and the other defendants holding under Maverick. In order to show that Losoya's title had been divested out of him prior to Maverick's purchase, it was contended that Losoya was a traitor to the Spanish crown at some time about 1819; that his property had been confiscated, and that Garcia, the ancestor of plaintiff, had bought it for the sum of fifty-five dollars. This purchase is supposed to have been made in 1819.

On the trial of the cause plaintiff introduced a record reciting what it is contended is an account of the sale of the property at which Garcia, plaintiff's ancestor, bought.

These proceedings are to be found from page 49 to 89 of record. Plaintiffs then stated to the court that this record was all they had to offer in order to show a condemnation and confiscation. The court charged the jury to return a verdict for defendants. R. page 31.

The correctness of this charge is the main question in this case, and all the points may be noticed in arguing this one.

1. Did Plaintiff show any confiscation of Losoya's property, or any proceedings or orders looking to its confiscation?

2. The record introduced begins with the proceedings in allotting lands by which Losoya *got* this property, and closes with its *sale* and purchase by Garcia for fifty-five dollars.

This proceeding in sale does not purport to be the *confiscation*, or any part of it.

Would the court have been justified in telling the jury that they could *presume* that there had been such condemnation.

If, under any state of the case, it could have been done, certainly not in this, after counsel announced that they had nothing further to sustain the theory of a confiscation. In proceeding

beyond the usual course and practice, no presumptions of their correctness can be indulged. State vs. Sullivan, 9 Texas R., 156.

But it is contended that under the Spanish government, and under the Mexican government, the fee to these lands, as they are in Mexico to-day, remains in the government or *community*, and that nothing was granted but the right of occupancy and water.

When a suerta or sub-division became vacant and remained so for one year, any one could *denounce* it and take possession, and such an one could hold so long as he remained in possession.

We see in this record so introduced by plaintiff, that Losoya obtained his right by an *allotment*, after it had been *abandoned by former occupants.*

So Losoya had nothing of value to be sold, and Garcia purchased nothing but "One-half *dula* of water, (R., page 66,) valued at $50, (R., page 85,) even if there was any authority for the sale, which has not been shown.

But if there had been a confiscation and sale by Spanish authority, the decrees hereinafter quoted completely restored all such property to former owners.

Art. 82, decrees of vice-royalty, required regular proceedings to confiscate. This decree reads as follows: "Art. 82. In the cases of confiscation of property situated in the provinces of any vice-royalty 'birrie,' the commanding general of the frontier, the audiences or other tribunals, shall not interfere with the same without special commission or charge of the same during their sequestration, but should the same be confiscated *by authority duly executed*, it becomes the private duty of the

intendentes to proceed with the transfer and collections of their values," thus showing that regular decrees were necessary to confiscation.

1. White's Recopilacione, 255.
1. " " 238.
1. " " 257.
1. " " 269.

There must be a record:

1. Whites Recop., 330.

Party must be cited, ibid, 331.

The act if performed of confiscation was an *extraordinary* proceeding and no presumption of a correct basis for the act can arise, such as would be presumed in the course of the performance of ordinary or usual acts of a known officer.

Gaines vs. Henan, 24 How., 553, 580 and 590.

Jones vs. Musibach, 26 Texas, 235.

In 1810 Mexico declared her Independence of Spanish authority. The struggle continued until 1821. Can it be truthfully contended that acts of confiscation by Spanish authority after such declaration and during the struggle were valid and effectual to pass title to real property, notwithstanding Mexico made her declaration good by a final triumph over Spanish arms?

If the Government and people of Mexico declared and asserted her Independence in 1810, could Spanish authority confiscate the property of those who adhered to that declaration in particular localities when the declaration was finally made good in 1821?

Wheaton's International Law, 56.

R. R. Co., vs. Commissioners, 36 Texas, R., 425.

Mexico was an independent state vested with all sovereignty and rightful authority over all the territory formerly dominated over by Spain from 1810, this too notwithstanding Spanish officials held certain localities by the sword until 1820.

Lawrence-Wheaton's International Law, page 36. McIllvaine vs. Cox. 4 Cranch, 212.

See Mr. Lawrence's letter to Lord Aberdeen, 22 Aug., 1828.

The original owner is entitled to the benefit of *postlining* and the title to real property acquired in war must be confirmed by treaty before if can become completely valid.

Lawrence-Wheaton's Int. Law, page 683.

Modern usage is not to confiscate.

Lawrence-Wheaton, 529 and 530.

" " 609.

How then could a military officer of an enemy confiscate the property of a citizen who adhered to the declaration which was made good, and the pretended authority making the confiscation entirely expelled and forever destroyed?

At page 412 Wheaton, 2 English Edition, says "the inhabitants temporarily under military rule of an enemy can not be compelled to take up arms against their country." This being true, how can their property be confiscated?

If the local community is retaken (as this was) the rights of persons are restored and the acts of those in temporary occupation (as the Spanish) fall to the ground.

Wheaton, 2 English Edition, page 412.

Temporary occupation may enable the occupants (military)

to acquire a right to movables but not to immovables.

Same page.

If the authority that confiscated real property be expelled, his sale of such property becomes void and the purchaser gets nothing.

Same page and book.

There is no order or decree confiscating the property of either the civil court or military. None could be presumed because plaintiffs stated to the court that they had nothing further to show confiscation.

This has been noticed in a former part of this argument.

2. Domat's Civil law, 2457, 2669.

1. White's Recopilacione 255, 238, 269, 330, 1-39.

The whole is void because there is no description of the property either in the pretended sale or in the supposed deed. "One dula" of water means what?

In the deed, no county, parish, state or municipality is named.

In legal proceedings the law is more exacting than in transactions between private parties. Coffee vs. Sylvan, 15 Tex., 359.

The constitution of 1812 of Spain, forbids confiscations. This instrument was promulgated in Mexico in October, 1812. See Cadiz constitution, Article 304.

But supposing a legal and formal confiscations till all confiscated property was *restored* to the owner in 1821.

Decree of December 15th.

The deed does not show from what source or authority it is made, state or nation. It was not archived in the general land office, 18 of April 1876. Texas constitution, Art 13, Section 2.

It may be objected that there was some sort of vested righ in plaintiff that could not be divested by the constitution first quoted.

To this I reply that there could be no vested right in an alien that would be protected in this way.

She had no vested rights, nor could have. The court will take judicial cognizance of the fact that in Mexico aliens can not acquire the fee to real property.

Watrous vs. McGrew, 16 Texas, 512.

Hollman vs. Peebles, 1 Texas.

This the court knows to be the law in Texas, when yet a Republic. It was the law in Mexico then, and the presumption is that it is so yet.

This being the case, Texas only accords to citizens of Mexico such rights as her citizens are accorded by Mexico.

Revised statutes of Texas, page 5, Article 9.

47 Texas Rep., 318.

The ancestor of plaintiff was an alien.

Plaintiff was, and is an alien, and the ancestor could not transmit nor could plaintiff inherit.

Hollman vs. Peebles, 1 Texas.

This plaintiff is not a stranger to this court.

McKinney vs. Sabriego, 18 How., 235.

White vs. Sabriego, 23 Texas, 243.

Sabriego vs. White, 30 Texas, 576.

The statute being once fixed, the presumption is that it continues and has always been so.

Then according to the allegations in the petition both she and her ancestor were aliens when descent was cast.

From her former standing in this court and the courts of

Texas, it will not be required of defendants to prove who she is, or what she is politically.

Alienage.

Section 10, General Provisions, Constitution of the Republic.

Article 7, constitution of 1845.

How could she inherit or hold property according to her own showing? She has not even been in Texas for forty years.

No alien shall hold, except, &c. Inheritance is not a holding from the Government directly.

Her claim then if any became null and void, and by the constitutions of 1845, 1861, 1869 and 1876, these claims stand null and void.

8 Otto, 496. Her case is an alien from *choice*.

The mother and child, plaintiff, were both aliens.

Stale Demand.

There is in this case enough to excite our admiration for the boldness displayed.

She alleges in her petition that the defendants took possession of the property and evicted her therefrom in 1843, forty years ago. More than the time alloted to each generation.

She stands by for forty years, and beholds a populous city reared on the ruins of a few jacals, that have been swept and ruined by the floods.

Her ancestor expended fifty-five dollars to buy a "dula" of water, the property of one who was struggling to expel a foreign crown from his country, and who after a struggle of eleven years, succeeds. Her or his vendees meet at the expiration of sixty years, and are told that just before the final triumph of Mexican Independence a Lieutenant Colonel in the service of his Spanish majesty, notorious as an outlaw and despot, in viola-

tion of the constitution of his country, had confiscated his estate, and it had been bought by the retreating royalist as he ran to tell the tale.

Even infants and married women are bound in their intercourse with the world to observe the rules of common honesty.

Crayton vs. Munger, 9th Texas.

Stale demands are peculiarly adapted to, and pleadable against married women, because they are shielded by the letter of the law from the operation of the statute of limitation.

If this claim is not stale, it would be difficult to find one.

A stale demand is defined to be a supposed right unclaimed for a long period of time.

3 Mason, 161.

Story's Eq., 1520.

Walsh vs. Hart, 27 Texas, 350.

DeCordova vs. Smith, 9 Texas, 159.

McMasters vs. Mills, 30 Texas, 595.

Fleming vs. Reed, 37 Texas, 152.

Barrett vs. King, 31 Texas, 480.

Williams vs. Conger, 49 Texas, 602.

In Mills vs. McMasters, supra, adverse possession had only been taken *three* years before the suit was brought. Mrs. McMasters was a married woman at and before such possession, yet the court says, 30 Texas, at page 594-5 that the claim was a stale demand.

In the case at bar more than forty years had elapsed from the date of adverse possession by Maverick before suit was brought.

At common law, and in all the earlier English statutes, twenty years was the longest limitation.

Under the laws of Texas, ten years is the longest period.

The doctrine of stale demand, which is only another mode of limitation not pleadable in courts of law, should be reduced in proportion.

Indeed the reason for retaining a saving clause in the laws of limitation in Texas, has entirely ceased, and the rule should cease.

At common law, a married woman could not sue or hold property in her own right.

In Texas she can do both, and there is nothing in our situation to induce or call on the courts to extend this exemption in her favor.

O'Brien vs. Hillburn, 9 Texas, 297.
Cannon vs. Hemphill, 7 " 184.
White vs, White. 3 " 168.
Mitchell vs. White 4 " 283.
Chapmann vs. Allen, 15 " 278.

Stale demand, Barrett vs. Kelly, 31 Texas, 476.

Every act of the Republic and State on the subject of limitation has been directed towards the most speedy settlements of land titles. Thus the 25th section of the act of 1841, (Hartley's Digest, Article 1397,) directs that the law repealed shall govern when titles will be more speedily settled by it.

The wife could sue under the civil law, and it required her to do so when other people were acquiring right to her property, and if she neglected she was barred. 1st Partida, page 374 Law 8th.

I understand that the doctrine of prescriptfon being an equity rule, knows no one and at the expiration of twenty years, ten in Texas, an absolute deed will be presumed as absolutely

as if one in proper form was produced, and according to plaintiff's allegations adverse possession was held here forty-one years before suit brought.

Barday vs. Howell, 6 Pet. R. 498.

If twenty years (ten here) it is a complete bar in equity.

Elmendorff vs. Taylor, 10 Wheat., 153.

It may be set up against *any title* whatever.

Bradstreet vs. Huntington, 5th Pet., 402.

The civil law was the basis of the rules of society under which their rights have been acquired and it abhorred delay.

Domatt Civil Law, 877, Section 4.

Society demands a settlement of rights.

Lewis vs. Marshall. 5 Pet. 470, Ibid 457.

These defendants are protected. No record in land office or elsewhere, until very recently.

Aerhart vs. Massmer, 98 U. S. R., 491.

See order on the subject of amnesty, Laws Coahuila and Texas, Page 285.

No oath has been taken by the plaintiff such as is required by 12th Section of the act of Congress, of the Republic.

Appendix No 2, page 249, Dallam's (Tex.) 14 Dec., 1837.

This pretended sale was made in November, 1819. Record page 86.

Spanish authority at that time was almost entirely destroyed in Mexico.

It was in Articulo Mortis and *expired* one year from that time.

A struggle is maintained for eleven years, the Mexicans fighting for Independence against Spanish authority, and as the Spanish sway pales and wanes, and as the last of the Royal

forces are making terms and their way out of the country, they give a longing glance back and declare that the property of the victorious party shall be confiscated, and it is sold to a Spanish Loyalist, Garcia, for the splendid sum of fifty-five dollars, and sixty-five years thereafter, though Losoya nor his vendees have ever been or could be molested by the confiscating power, his heir, though an alien, after this great lapse of time, finding that her father was not executed by the triumphant party, comes and seeks to disturb the inhabitants of a populous city by setting up claim to this "dula" of water purchased by her father for fifty-five dollars.

It is insisted that this is not a stale demand.

In the proceedings the property is called water and houses.

In the same connection other property is called *land*, *suerta*.

Extracts from the constitution of Spain, adopted in 1812, and promulgated in Mexico 6th of Sept. of that year. Alaman's history of Mexico, Vol. 3, page 277:

"In the name of the Omnipotent God, Father, Son and Holy Spirit: [Article 24] No Spaniard shall be judged in civil or criminal laws by a commission, but only by a competent tribunal appointed previously by law."

[Article 242.] "The power of applying the laws in civil cases pertains exclusively to the tribunals."

[Article 243.] Neither the Cortez nor the king can exercise in any case judicial functions, nor call up from an inferior court pending cases nor order to be opened judgments concluded."

[Article 244.] "The law shall make the order and formalities of suits which shall be uniform in all the tribunals and neither the Cortez or the king can dispense with them."

[Article 246.] "Neither shall the execution of the laws be

suspended, nor any regulation for the administration of justice made."

[Article 304.] "Neither shall there be imposed the confiscation of property."

[Article 305.] "No punishment imposed, no matter what the crime may be, ought to be transcendental for any time to the family of the one who suffers it, but it shall only have effect upon the one deserving it."

WHO WERE SPANIARDS?

Article 1. "The Spanish nation comprises the embodiment of all Spaniards of both hemispheres."

While common law, justice and reason, as well as the constitution of 1812, forbid confiscation, it had been attempted in some localities, controlled by the military. After the restoration of peace and the triumph of the party whose property had been taken from them by the military, the Mexican Congress decreed as follows:

Vol. 1, page 21. "Ordered that the commanders of the Spanish government restitute all property which they have confiscated from, and belonging to the so-called insurgents."

"Your Excellency: The supreme Constitutional Mexican Congress in consideration of the solicitation of Captain Meneses respecting that there may be declared included in the decree of the 15 December last, by which it was ordered to return all properties confiscated and seized by the anterior goverment for the supposed crime of adhering to the cause of Independence, those which no longer remain seized, because the commanders of the late goverment applied them to their own use, or sold them for their own benefit, has thought well to resolve that the decree must be extended to the said goods, and that in conse-

quence, the commanders are obliged to make restitution of whatever in this manner they have received."

"By order of His Majesty we communicate this to your Excellency.

"Mexico, 28th March, 1822

"SECRETARY OF THE DISPATCH OF RELATIONS."

Again, 23 December, of 1821:

"That all properties sequestrated from parties addicted to the Independence be returned to them.

"The sovereign and provisional gubernatorial conventions of this empire, 'In consideration of the petition of Captain Don Francisco Tello de Meneses, asking that the properties of the deceased Prince, Don Jose Rafael Toredo, of whom he is the testamentary executor, that were ordered to be confiscated by the old government for the supposed crime of adhesion to the Independence, be returned to him, has been pleased to order that said properties be returned to Meneses, provided that the sequestration was not based on other motives than the one he mentions, and taking into consideration that this resolution shall be applicable to all similar cases, has been pleased to order, and does order, that it be circulated to the respective authorities.'

"The sovereign constitutional Congress of Mexico in consequence of the petition of Captain Don Francisco Tello Meneses to have comprised in the decree of December last, by virtue of which it was ordered that the properties confiscated and sequestered by the former government for the supposed crime of adhesion to the cause of Independence, these that do not remain sequestered because the commandants ot the former government applied them or sold them for their own use and benefit, has been pleased to decide that said decree shall apply to all such

properties. Consequently the commanders are hereby bound to make restitution of all they have recovered from that source.

"By order of His Majesty, I communicate it to your Excellency.

"Mexico, 28th of March, 1822.

"To the Secretary of Foreign Relations."

"I, F. Crecencio Pachud, a notary public for the capital, certify in due form of law that the foregoing are literal copies of the contents of the original decree, and order to which it refers which I certify to have seen—the first, in the first volume, and the second, in the second volume of the collection of orders and decrees made by the sovereign and Gubernatorial General Congress of the Mexican Nation, printed in Mexico in the year 1829, by permission of the General Congress, and corrected by a commission of members of the chamber of deputies.

"A true copy of which is made on this one sheet of paper with the corresponding stamp, in compliance with the stamp duty law. To certify which I herewith sign my name and affix my rubric, on the 24 day of December, 1882."

[Signed.]

"American Consulate certifying that F. Crecencio Pachud was a notary Public. Signed December 26, at Monterey by Rudolph Duval, Vice Consul of U. S. A."

No additional charge as to presumption or other points was asked.

Carter vs. Carusi, 112 U. S. R., 478.

The points we make, then, are:

First.

There was no proceeding in confiscation shown, except as recited in the act of sale by the Spanish authorities, military.

Second.

No presumption can or will be indulged in by court or jury, because the confiscation, if it ever took place, was an extraordinary proceeding and not in the regular or ordinary course of justice.

AUTHORITIES:

Law of Evidence, Wharton, Sec. 1308
The state vs. Sullivan, 9 Texas Rep., 156.
Gaines vs. Heenan, 24 How. U. S., 553, 580, 590.
Jones vs. Musibach, 26 Tex., R. 235.
2 Domat's Civil Law, 2457, 2669.
1 White's Recopilacione, 255, 238, 289, 230.

Third.

The war began in 1810, and ended in 1821. This supposed confiscation is said to have been made in 1819. This routed and defeated dynasty could not confiscate the property, real, of the victorious and successful Mexican people.

AUTHORITIES:

Common sense.
Wheaton's Law of Nations, 56.
R. R. vs. Commissioners, 36 Texas, 425.
Lawrence-Wheaton International Law, page 36.
McIllvaine vs. Cox, 4 Cranch, 212.
Lawrence-Wheaton's International Law, 683.
Same book 529, 530, 609.
Wheaton's International Law, page 412, 2d English Ed.

Fourth.

There was no authority to confiscate property, and the King himself could not do such acts.

AUTHORITIES.

Constitution of Spain of 1812.
Cadiz constitution, Art., 304.

Alaman's History of Mexico, vol. 3, page 277.
Cadiz constitution, Art., 242, 243.
Art., 24, 244, 246, 304, 305.

Fifth.

All of the property attempted to be confiscated by the vanquished Spanish troops was restored by royal orders under Iturbide.

Decree of December 15, I821.
See "orders and decrees."
Orders and decrees Mexican Congress.
Vol. 1, page 21, 1822.
See decree 23, 1821.

Seventh.

According to plaintiffs' allegations they were evicted forty years before the suit was filed, and the claim is a stale demand.

AUTHORITIES:

3d Mason's C. C. Rep., 161.
Story's Equity, 1520.
Walsh vs. Hart, 27 Texas, 350.
DeCordova vs. Smith, 9 Texas, 159.
McMasters vs. Mills, 30 Texas, 595.
Fleming vs. Reed, 37 Texas, 152.
Barrett vs. King, 31 Texas, 480.
Williams vs. Conger, 39 Texas, 602.
Harpending vs. Dutch Church, 16 Pet. R. 455.
Barday vs. Howell, 6 Pet., 498.
Elmendorf vs. Taylor, 10 Wheat., 153.
Bradstreet vs. Huntington, 5 Pet., 402.
Marshall vs. Lewis, 5 Pet., 470.
Aerhart vs. Massner, 98 U. S., 491.

Eighth.

As matter of law the court must presume from the allegation in the petition of the eviction forty years before suit was brought, that defendants have an absolute fee simple title, and will not allow them evicted.

AUTHORITIES:

1. Greenleaf's Evidence, Sec. 15, 17.

Here it is *four times* longer than the longest limitation.

Ninth.

If on inspection of the case it is clear that plaintiff cannot recover, this court will not reverse, though the trial court may have committed errors.

AUTHORITIES:

Brobst vs. Brock, 10 Wall, 519.

Tenth.

Ten years is the longest limitation known to the laws of Texas.

AUTHORITIES:

Revised statutes of Texas.

Eleventh.

Prescription is founded on the highest considerations o public policy.

AUTHORITIES:

Gautier vs. Franklin, 1 Texas 732.

Public policy demands that the law of estoppel shall have full force.

AUTHORITIES:

Herman, page 501.

At the time the transactions took place in Texas, 1810-1822, the Spanish constitution and laws and decrees of the Emperor and Congress of Mexico, being then the supreme law in Mexico and Texas, so far as Spanish authority extended and

are now the laws of the case at bar, this court will take judicial knowledge of them.

AUTHORITIES:

Wharton's Evidence, Secs. 283, 285.

Of prior sovereign, 291 Wheaton.

This court will consult Mexican Archives, though not offered in evidence. Romero vs. U. S., 1 Wall, 721.

The court may consult common history. Wharton's Evidence, Sec. 282.

Twelfth

It was the duty of the court to instruct the jury as it did.

AUTHORITIES:

Chandler vs. Van Rhoder, 24 Howard U. S. 227.

The excluded deposition did not tend to support plaintiffs claim of title, and was properly excludeed, Ibid.

While it might take "*office found*" to divest an alien of lands in Texas, and at common law, still an alien cannot sue to recover lands either at common law or under the laws of Texas.

AUTHORITIES.

White vs. Sabriego, 23 Texas, 243.

Barrett vs. Kelly, 31 Texas, 476.

McKinney vs. Sabriego, 18 How., U. S. 235.

Fourteenth.

Plaintiffs allege, R. page 2, that they are citizens of and residents of Mexico, and the presumption of law is that they have always been citizens of Mexico, and aliens.

AUTHORITIES:

White vs. Sabriego, 23 Texas 243.

Wharton's Evidence, sect. 1284.

Walrod vs. Ball, 9th Barb. N. Y. 271.

Cooper vs. Dedrick, Ibid. 516.

Smith vs. Smith, 4 page 432.

Wilkins vs. Earl, 44 N. Y. 172.

Moore on Citizenship, page 13.

Moore on Citizenship. 37.

Greenleaf on Evidence, Vol. 1 sect., 41.

No allegation that a citizen of Texas could sue for real estate in Mexico.

Revised statutes of Texas, Art., 9.

Clay vs. Clay, 26 Texas 30.

Lacoste vs. Odem, 26 Texas, 458.

Fifteenth.

"POST LIMINII."

It is a right recognized by modern nations, and goes far to mitigate the calamities of war.

AUTHORITIES:

Hubert vs, Moore, Dallam's Texas, 594.

After the successful war the Mexican government, as it did, was bound to restore the property taken from her citizens during the war. Kent, vol. 1, page 107; vol. 1, 6th edition, page 109.

Sixteenth:

If there had been formal confiscation it could have conferred no rights beyond the cessation of hostilites.

AUTHORITIES:

Cooper vs. Telfair, 4 Dallam 14.

Fairfax vs. Hunter, 7 Cranch, 603.

Georgia vs. Brailsford, 3 Dallas, 1.

The Emulous, 1st Gallison 563.

Ware vs. Hylton, Dallas, 225.

Brown vs. United States, 8 Cranch, 110.

Planters Bank vs. Union Bank, 16 Wall 483.

No title could pass unless confirmed by treaty after the war.

AUTHORITIES:

Lawrence-Wheaton, 2d Edition, page 683.
Wheaton Sec., 398 page 465.

Seventeenth.

Plaintiff had to show title in herself, from the sovereignty of the soil. This was not done. The setting apart to Losoya in 1793, for *occupation* as an inhabitant of the Puebla, was not title so far as the Government was concerned, and it was not sufficient to show that defendants held under Losoya. An occupant can sell, or transmit, without being owner of the soil.

At the time of preparing and filing this brief, I have not had the privilege of knowing what points of law will be urged before this court by plaintiff in error. I have endeavored to anticipate them, and believing that the court below has committed no error that has proven detrimental to the plaintiff.

I respectfully urge a confirmation of the judgment below, and while no motion has been made to advance the case, it is suggested that the vast numbers of people interested, and amount involved, suggest the propriety of as early a decision as may be had.

Respectfully submitted,

JOHN IRELAND.
Counsel for defendant in error.

Supreme Court of the United States.

SABARIEGO
vs.
MAVERICK.
No. 67.

Reply to Brief of Defendants in Error.

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S. H. GOLDSMITH, PRINTER.

Supreme Court of the United States.

SABARIEGO
vs.
MAVERICK. } No. 67.

Reply to Brief of Defendants in Error.

In the statement of the case it is asserted that the defendants claimed under Miguel Losoya. The fact is, however, that on the trial no title was asserted by the defendants, they resting on their possession.

While the brief contains this assertion, the point is at the same time made that nothing passed under the sale by the Confiscation Board to Garcia "but one-half 'dula' of water" and the right of occupancy to the land which, it is said, was all that Losoya had.

Irrespective of the inconsistency of this argument, it is manifest that what was sold to Garcia, was the "suerte" or tract of land owned by Losoya with its appurtenant water rights. R. 78, 81, 89.

As to the validity of the sale to Garcia it is said, that the Spanish authorities had no right to confiscate property of the insurgents after 1810.

The independence of Mexico was not achieved until 1821, when the treaty of Cordova was made.

Unless Mexico is shown to have taken steps to nullify the title, the defendant is not in the position to raise such a point. *Spenser* vs. *Lapsley*, 20 How., 273.

Two grounds are relied on to show that the sale of the property to Garcia was illegal.

(1.) It is said that confiscation as a penalty for rebellion was abolished by the Constitution of 1812.

(2.) That after independence, the Mexican Congress in 1821, decreed restitution of all property confiscated from the insurgents.

The case was decided in the court below, solely on the ground of the failure of the plaintiffs to produce the sentence confiscating the property. The court refused to allow plaintiffs to prove that the titles derived under the sales by the Board of Commissioners had never been annulled or questioned by any governmental action. R., 50.

If the issues now made are properly before the court, we submit that they must be determined in favor of the plaintiffs.

On the points raised we have been favored with the views of Senor Emilio Velasco, an advocate of the city of Mexico, whose opinion on the general question of title we placed before the court in our first brief. We now adopt Senor Velasco's opinion as our argument on the effect of the Constitution of 1812, and the decrees of the Mexican Congress.

It clearly shows that the Constitution of 1812 was nullified by the decree of Ferdinand VII., issued May 4, 1814, and which was communicated to the Viceroy of New Spain, who issued an order for its due execution. In point of law, that Constitution never had any legal effect.

It also establishes that the decrees of the Mexican Congress relied on by the defendants, apply alone to *embargoed* property still in possession of the Government officers, or where such property had been sold for the personal benefit of such officers, they ordered restitution of the proceeds.

Such decrees did not apply to confiscated property which had been sold by the Spanish Government to third persons.

When such was the case, the only relief granted was an indemnity by the Mexican Government.

When Ferdinand VII, King of Spain, was made a captive by Napoleon I, in France, in the year 1808, central "juntas" (meetings or orders) organized in the several provinces, assumed administrative and political authority. Subsequently a supreme central governing "junta" was organized, which exercised supreme authority in Spain. Afterwards a consul of regency was formed and, finally, in 1810, the Cortes met in Cadiz and discussed, drew and issued the constitution of 1812.

There were, at that time, two governments in Spain. One of them imposed by Napoleon I; first, with Murat at its head as the lieutenant of Napoleon; and, next, with King Joseph, Napoleon's brother. Another, or the National Government, especially represented by the Cortes of Cadiz, was recognized and obeyed by the Spanish colonies in America. The constitution of 1812 was published in those colonies and they elected deputies to the Cortes there to represent their respective colonies.

The constitutional regime lasted in Spain until May 11, 1814, when the Cortes was dissolved From

1808 Ferdinand VII. had remained a captive in France ; but in 1813 Napoleon I., having lost a great part of his power and influence on the European continent, and given up his project upon Spain, a treaty was concluded, December 11, 1813, at Valencia, between both monarchs, and a few months thereafter Napoleon restored Ferdinand VII. to full liberty. These are historical facts of which the Court will take notice.

Ferdinand VII., as soon as he retained his liberty, returned to Spain and, immediately upon arriving at Valencia, issued, May 4, 1814, a decree annulling the Cortes, and the constitution and the laws which had the same origin, stating, among other reasons, that the crown had been despoiled of the prerogatives which were inherent thereto and of which the King and his ancestors had been possessed.

This decree is extremely important in solving the question under discussion It was not limited merely to a repeal of the constitution and laws of the Cortes, but it annulled them. A *repeal* would have meant that these laws had produced all their effects; *nullification*, on the contrary, gives us to understand that the constitution and laws of the Cortes should be considered as never having existed. The juridical consequence is that the confiscation laws had been and were in force ; that the constitution being no law did not repeal them ; and that they could be applied, as in fact they were applied, within the territory of the Spanish colonies, not only after the constitution had, in 1814, been declared null, but even previous to that declaration.*

Such, precisely, are the effects of nullity ; and it would seem unnecessary to expatiate on that point, upon which Escriche may be consulted. (Nullidad y Nullo.)

The acts of Ferdinand VII. were accepted through-

* Manifesto del Rey, declarando por nula y de ningun valor ni efecto, la Constitucion de las llamadas Cortez generales y Extraordinarias de la nacion. 1 Decretos Del Rey Don Fernando VII, p. 8. Madrid, 1816.

out the dominion of the Spanish monarchy. Absolute government was restored in Spain. It was recognized as being of that character by all other governments, the United States included. The result is, that the King's orders were accepted as laws, not only at home, but also in an international point of view, by the governments which recognized Ferdinand VII. as absolute king after he had declared the nullity of the Cortes. These governments accepted the juridical consequences in questions of international order. These consequences are applicable to the confiscation of Losoya's property.

2. December 15, 1821, a decree (Vol. 1 of the Collection of Decrees of Mexican Congress, p. 76), was issued ordering the restitution of property ordered to be confiscated by the Spanish government for the so-called crime of adhesion to independence. It is desired to know whether this decree includes only that property which was still in the possession of the public treasury, or whether it included the property which had been sold and had passed into the hands of third parties.

There are two subsequent orders which remove all doubt from the subject. March 28, 1822, an explanatory order was issued, from which it appears that the commanding officers of the Spanish government had, for their own benefit, disposed of property confiscated by that government, or sold the same for their own advantage. (See Vol. II ofthe Collection of Decrees, p. 19.)

Congress resolved that the decree of December 15, ordering the restitution of confiscated property should extend to such property; and, consequently, the commanding officers were required to restore whatever on that account they had received.

From this order several consequences are deduced:

1. That the decree ordering the restoration of property ordered to be confiscated did not extend to all the property;

2. That, if the commanding officers of the Spanish government had sold confiscated property, using the

proceeds for their own benefit instead of depositing the same in the public treasury, as was their duty, they were required to restore whatever they had received on that account; and,

3. That, restitution being limited to whatever the commanding generals of the Spanish government had received, it clearly meant that restitution did not extend to property acquired by third parties. The obligation of restitution was personal to the commanding officers of the Spanish government; and the law did not extend it to third parties in possession.

Another still more important order is the decree issued October 24, 1823, referring to a relief extended to the heirs of Don Ignacio Allende. (Vol. 2, Collection of Decrees, p, 205.)

As may be seen in any Mexican history of that time, Don Ignacio Allende was one of the leaders who, on the 15th of September, 1810, proclaimed the independence of what is now the Mexican Republic. He was subsequently shot by the Spanish government. July 19, 1823, the Mexican Congress issued a decree to honor the memory of the heroes of Mexican Independence. (Vol. 2, Collection of Decrees, p. 149.) In Articles 7 and 13, Senor Allende is mentioned, and, among other articles of the same decree, articles 15, 18 and 24, may be read to elucidate this historical question. The property of Senor Allende, consisting in a mill, was confiscated; and the case is absolutely identical with the one now pending in the United States concerning Losoya's property.

By the decree just mentioned, Congress ordered that the heirs of Don Ignacio Allende should be compensated with real or other national property for the value of the mill confiscated by the Spanish government. (Art. 1.) This order shows that the Mexican government respected the sale of that mill which had been executed in favor of a third party, and that it did not attempt to grant a reparation by requiring the third party to return what he had bought, but made it with national property. The

following article of the same decree leaves no doubt on this subject.

For an understanding of Art. 2 an explanation may be necessary. As a general rule, after a judicial sale has been effected, the price of the sale is considered as the just price, and the contract is perfect; but, in former times in the matter of royal revenue, it was a privilege of the Fisc that new bids might be admitted within fifteen days after sale, provided they reached one-tenth beyond the price of the sale, and that, within three months from the second adjudication, another bid might be made for one-fourth more than the price of the second adjudication (Escriche, Art. Puja). These were privileges of the Fisc, and Art. 2 of the decree of October 24, 1823, when providing that no account should be taken for establishing the compensations of the augmentations to the just price of the sale, as a consequence of the privileges of the Fisc, gives us to understand that the sum which should be taken as the base for relief was the price of the first adjudication, and that that price ought to be considered as the just price.

The bases for the Allende relief were as follows, according to Art. 2:

1. The net proceeds received by the public treasury. All these sales were entailed with fees and costs, which were deducted from the price of the sales; the relief being limited to the net amount received by the public treasury, did not extend to that part of the price included in such fees and costs—such amount was lost by the heirs of Senor Allende.

2. From these net proceeds the augmentation of the just price, by reason of the privileges of the Fisc, was also to be deducted; so that the heirs of Allende did not receive even the total amount entered in the public treasury.

By Art. 3 of the same decree of 1823, it is declared that the relief ordered by Congress is a favor extended in acknowledgment of the extraordinary

merits of Senor Allende, and that it should not serve as an example ; that is, as a precedent for other cases.

We deduce from the several provisions of this decree that, under the confiscation laws, the mill belonging to Senor Allende had been sold by the Spanish Government ; that the Government of the Mexican Republic respected the sale and rights acquired thereunder by a third party : and that it undertook to compensate the heirs of Don Miguel Allende for their loss with national property—giving to the proceedings the character of a favor or bounty.

This subject is better elucidated by another provision. During the colonial government, and for a long time afterwards, public officers had certain characteristics which assimilated them to a species of property subject to certain special rules, and, except agreeably to rules which constitute guarantees against arbitration action, employees could not be removed from them. The colonial government dismissed employees who were believed to be adherence to independence. This gave cause for the decree of June 5, 1822 (Vol. 2 Collection of Decrees, p. 48), which provided that, concerning offices forfeited for adhesion to independence—if they were vacant—those who had been removed from them should be restored to them ; and, if they were not vacant, those who had been removed by the Spanish Government should be compensated with other offices of equal rank and salary.

Thus, the Mexican Government respected acquired rights to such extreme degree that, even in the matter of offices, it was unwilling to replace in them those who, on account of their adhesion to independence, had been removed by the Spanish Government, if third parties were holding them. This evinces the policy followed by the Mexican Government on these subjects.

The second point is connected with the first. The Constitution of 1812 abolished confiscation. Ferdinand VII. declared the Constitution and laws having the same origin, null and of no value or

effect. After independence the Mexican government might, taking the Constitution of 1812 as a basis, have declared the nullity of confiscations and sales of confiscated property. But it did nothing of the sort. It limited itself to ordering the restitution of property of which the public treasury still had possession, and respected the rights acquired by third parties. Thus it considered that the sales under which these rights had been acquired were lawful, thereby explicitly acknowledging that the acts of Ferdinand VII. annulling the Constitution and exercising absolute power, produced juridical consequences which, ought to be respected. Therefore, property confiscated from the Mexican insurgents against the government of Spain, when sold to third parties, remained in a juridical situation, which the Mexican government acknowledged as lawful, the Constitution of 1812 notwithstanding.

This juridical situation is, obviously, not altered by the fact that Texas has become a part of the United States, Therefore the American courts are bound to accept as the ground work of their decision, the juridical situation in which the property confiscated from the insurgents and sold to third parties, existed after independence. Hence it is, that the starting point for determining these questions is not the Constitution of 1812, but the acts of the Mexican Government determining the juridical consequences which, in the matter of confiscation, resulted from the laws of Spain from 1812 to 1814. These acts are founded upon the fact that the confiscation laws were not repealed, or in other words, that the decree of Ferdinand VII, annulling the Constitution, is a law which produced consequences in the Territory of New Spain, and on which rights were founded which had to be respected, and in fact, were respected, as appears from the laws above mentioned.

Objection is made on the ground of non-registration of title.

The first link in the title is a partition through Governor Munos, Governor of the province of Texas at San Antonio under the authority of the Viceroy of Spain in 1792, 1793. This document has never been archived in the General Land Office or recorded as a deed in the County of Bexar, but has remained among the records of the City of San Antonio and County of Bexar, as is to be presumed from date of deposit, having been directed by Gov. Munos, in 1793, to be deposited in the archives of the Government.

The second link in the title is the confiscation and sale by Spain, through Gov. Martinez, at San Antonio, of the property mentioned in the first link, begun in 1817 and concluded in 1819, and a conveyance from the Board, organized for the sale of the property, to plaintiff's ancestor, Nov. 23, 1819. No part of this link was ever archived in the General Land Office or recorded (except the deed a short time since) in the County of Bexar; but, like the previous link, it has remained among the records of the City of San Antonio, and afterwards of the County of Bexar, as is to be presumed, since date of execution.

The admissibility of these documents in evidence is one question; their legal effect when admitted, either by themselves or in connection with other evidence, is another. Non-registration does not make the title void. Nor is the want of registration, even if registration be necessary, sufficient of itself to postpone the plaintiff's grant. *Musquiz* vs. *Blake*, 24 Tex., 461, *King* vs. *Elson*, 30 Tex., 246.

To reject the instruments would prevent plaintiff from showing actual or constructive notice of their title.

In *Airhart* vs. *Massieu*, 98 U. S., 491, it is said (p. 500): "Of course buying with actual notice of the previous title or under circumstances which make it a duty to take notice, is a fraud and deprives the purchaser of the immunity arising from the fact that such title is not recorded nor deposited in the Land Office." Citing *Crosby* vs. *Huston*, 1 Tex., 203; *Grumbles* vs. *Sneed*, 22 Id., 505, 565.

The introduction of title must necessarily precede proof of actual or constructive notice thereof. These original documents in Spanish being in the lawful custody of the clerk of the County Court, a copy thereof upon his certificate, is admissible in evidence. *Hubert* vs. *Bartlett*, 9 Tex., 97. See, also, R. S. Art. 2252, Art. 2256, taken from the Act of May 13, 1846, which reads:

"Copies of all conveyances and other instruments of writing between private individuals, which were filed in the office of any alcalde or judge in Texas previous to the first Monday in February, 1837, shall be admissible in evidence, and shall have the same force and effect as the originals thereof; *provided*, such copies are certified under the hand and official seal of the officer with whom the originals are now deposited." (See also, *Herndon* vs. *Casiano*, 7 Tex., 322; *Andrews* vs. *Marshall*, 26 Tex., 216.)

The existence of Spanish archives in the office of the clerk of Bexar County is recognized by acts of February 7, 1853 and August 25, 1856. (1 Paschal, Arts. 83-85-86.)

But do the registration laws apply to plaintiffs' title? It is to be borne in mind that the premises in controversy belonged to the mission Valero of the old town of San Fernando, now City of San Antonio, and that neither Spain, Mexico nor Texas have, since the sale in 1819, ever asserted any claim to them; and further, that this is not the case of a subsequent location on, and patent by, the State to a portion of what the locator at the time had a right to suppose a part of the public domain, as in *Gilbeau* vs. *Mays*, 15 Tex., 410, and cases following in its wake. It more nearly resembles the case of *Lewis* vs. *San Antonio*, 7 Tex., 288, which, though elaborately considered, contains not the slightest allusion to the non-registration of the title of the city. Indeed, the title of the city could not have been recorded for the title had not been seen since 1833 or 1834. It is apparent, from the brief opinion in *Watson* vs. *Chalk*, 11 Tex., 89, that the decision turned upon the priority of registration of deed from one private person to another, though executed before a judge of the jurisdiction. The deeds were to outside lands not pertaining to a mission or municipality. In *Airhart* vs. *Massieu*, 98 U. S., 91, the controversy was between those claiming under an eleven league grant made in 1830–36, and one claiming under a grant made in 1835, and another claiming under a headright grant made in 1857. The deeds of the defendants were all duly recorded long before any trace of plaintiff's title could "be found in any public office of archives or records in Texas. The Protocol of plaintiff's title was first deposited in the Land Office in 1873, after the commencement of the suit. The court in this

case quotes secs. 37, 40 of the Act of December 20, 1836.

These sections are as follows:

"Sec. 37. Any person who owns or claims land of any description, by deed, lien or other color of title, shall, within twelve months from the first of April, next, have the same proven in open court, and recorded in the office of the clerk of the county in which said land is situated; *but if a tract lies on the county lines, the title may be recorded in the county in* which part of said land lies."

"Sec. 40. No deed, conveyance, lien or other instrument or writing, shall take effect, as regards the interests and rights of third parties, until the same shall have been duly proven and presented to the court, as required by this act, for the recording of land titles. And it shall be the duty of the clerk to note particularly the time when such deed, conveyance, lien or other instrument, is presented, and to record them in the order in which they are presented."

Paschal, Arts. 4980,4983.

After quoting the act of October 20, 1866, and expressing a doubt as to whether it would apply to any other titles except those based on "land warrant or certificates," the court say:

"But it is not necessary for the defendant to invoke the aid of this law; he can stand on the fair construction of the laws of 1836 and 1839. The title which he is called upon to combat was not to be found either in the Land Office or in the records of the counties, the only public depositories to which the people could resort to ascertain what lands have been granted, and what are vacant and free; and he may well insist that if he and his several grantors had not actual, they should at least